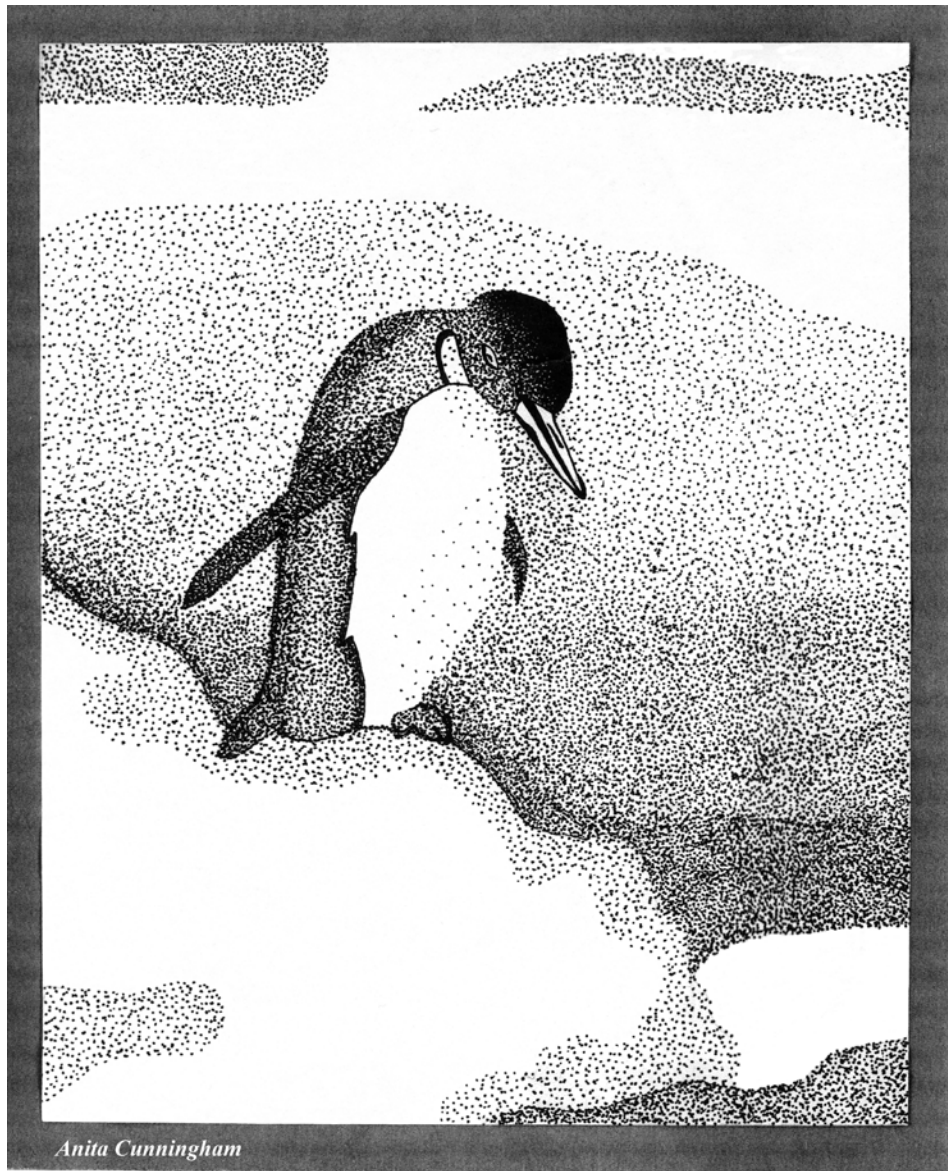

TEXAS REGISTER

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Open Meetings

Statewide agencies and regional agencies that extend into four or more counties post meeting notices with the Secretary of State.

Meeting agendas are available on the *Texas Register's* Internet site:
<http://www.sos.state.tx.us/open/index.shtml>

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 512-463-5561. Or request a copy by email: register@sos.state.tx.us

For items ***not*** available here, contact the agency directly. Items not found here:

- minutes of meetings
- agendas for local government bodies and regional agencies that extend into fewer than four counties
- legislative meetings not subject to the open meetings law

The Office of the Attorney General offers information about the open meetings law, including Frequently Asked Questions, the *Open Meetings Act Handbook*, and Open Meetings Opinions.

<http://www.oag.state.tx.us/open/index.shtml>

The Attorney General's Open Government Hotline is 512-478-OPEN (478-6736) or toll-free at (877) OPEN TEX (673-6839).

Additional information about state government may be found here:
<http://www.texas.gov>

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Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or Braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting notice several days before the meeting by mail, telephone, or RELAY Texas. TTY: 7-1-1.

EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

TITLE 22. EXAMINING BOARDS

PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

CHAPTER 473. FEES

22 TAC §473.4

The Texas State Board of Examiners of Psychologists adopts on an emergency basis an amendment to §473.4, concerning Late Fees for Renewals (Not Refundable).

This amendment is adopted on an emergency basis pursuant to §501.302 of the Psychologists' Licensing Act. The Board's late fees for renewals are derived from the examination fee for the EPPP, which is scheduled to increase from \$450 to \$600 on March 1, 2013. Although the Board is proposing simultaneously a non-emergency amendment to §473.4 reflecting the same increased renewal fees, without this emergency rule, the Board's renewal late fees would not comport with the requirements of §501.302 in the interim period between March 1, 2013 and the effective date of the non-emergency amendment following adoption. This emergency rule is necessary to ensure compliance with Texas Occupations Code Annotated §501.302 during the interim period between March 1, 2013 and the effective date of the non-emergency amendment following adoption.

The amendment is adopted on an emergency basis under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§473.4. Late Fees for Renewals (Not Refundable).

(a) Licensed Psychological Associates, Provisionally Licensed Psychologists, Licensed Psychologists

(1) One day to ninety days--\$300 [~~\$225~~]

(2) Ninety-one days to less than one year--\$600 [~~\$450~~]

(b) Licensed Specialists in School Psychology

(1) One day to ninety days--\$105

(2) Ninety-one days to less than one year--\$210

(c) This rule shall be effective for a period of 120 days beginning on March 1, 2013, and shall expire thereafter.

This agency hereby certifies that the emergency adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 20, 2013.

TRD-201300708

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Effective date: March 1, 2013

Expiration date: June 28, 2013

For further information, please call: (512) 305-7706



PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to

submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~[Square brackets and strikethrough]~~ indicate existing rule text that is proposed for deletion. “(No change)” indicates that existing rule text at this level will not be amended.

TITLE 1. ADMINISTRATION

PART 3. OFFICE OF THE ATTORNEY GENERAL

CHAPTER 62. SEXUAL ASSAULT PREVENTION AND CRISIS SERVICES SUBCHAPTER A. SEXUAL ASSAULT NURSE EXAMINER CERTIFICATION AND SEXUAL ASSAULT NURSE EXAMINER TRAINING PROGRAM CERTIFICATION

1 TAC §§62.1 - 62.13

The Office of the Attorney General (OAG) proposes new Subchapter A, §§62.1 - 62.13, concerning Sexual Assault Nurse Examiner Certification and Sexual Assault Nurse Examiner Training Program Certification. The proposal would update and streamline the procedures for sexual assault nurse examiners to become certified and to maintain that certification. The proposal also updates and streamlines the OAG's procedures to certify sexual assault nurse examiner training programs and to maintain that certification.

The OAG also proposes to repeal §§62.25 - 62.32, the provisions that previously regulated the sexual assault nurse examiner certification program requirements. The proposed repeal is necessary to allow for the updated and streamlined procedures. Additionally, the proposed repeal is to better organize the existing Chapter 62.

New §62.1 concerns Scope and Construction of Rules; new §62.2 concerns Definitions; new §62.3 concerns Standards for OAG SANE Training Program Certification; new §62.4 concerns OAG SANE and OAG SANE Training Program Certification Process; new §62.5 concerns OAG SANE Certification Eligibility; new §62.6 concerns Renewal of an OAG SANE Certification; new §62.7 concerns Interstate Reciprocity; new §62.8 concerns Changes in Eligibility for OAG SANE Certification; new §62.9 concerns OAG SANE Training Program Certification Eligibility; new §62.10 concerns Renewal of OAG SANE Training Program Certification; new §62.11 concerns Changes in Eligibility for OAG SANE Training Program Certification; new §62.12 concerns Denial, Suspension, Decertification or Probation of OAG SANE or SANE Training Program Certification; and new §62.13 concerns Administrative Remedies.

Gene McCleskey, Director of the OAG Crime Victim Services Division, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state

or local government as a result of enforcing or administering the sections.

Mr. McCleskey also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to clarify and streamline the requirements for sexual assault nurse examiners and sexual assault nurse examiner training programs to become certified by the OAG and to maintain those certifications. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Written comments on the proposal may be submitted for 60 days following the publication of this notice to Kaye Woodard-Hotz, Manager, Sexual Assault Prevention and Crisis Services Program, Crime Victim Services Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 936-6648 or Kaye.Woodard-Hotz@texasattorneygeneral.gov.

The new sections are proposed in accordance with Texas Government Code, §420.011(c), which authorizes the OAG to adopt rules necessary to establish the minimum standards for the certification of a sexual assault nurse examiners as well as sexual assault nurse examiner training programs and the minimum standards for the suspension, decertification, or probation of a certification of a sexual assault nurse examiner.

No other code, article or statute is affected by this proposal.

§62.1. Scope and Construction of Rules.

(a) This subchapter is intended to apply to the administration of the Sexual Assault Nurse Examiner Certification under the Sexual Assault Prevention and Crisis Services (SAPCS) Act, Texas Government Code, Chapter 420.

(b) If good cause is established to show that compliance with any part of this subchapter may result in an injustice to any party, these rules may be waived at the discretion of the chief.

(c) The Office of the Attorney General (OAG) may review, audit, or investigate any information submitted by any individual or entity pursuant to this subchapter.

(d) This subchapter is intended to effectuate the purpose of Texas Government Code, Chapter 420 regarding the minimum standards for the certification, suspension, decertification or probation of a sexual assault nurse examiner (SANE), the standards for examiner training courses, and for the interstate reciprocity of SANES.

(e) These are the minimum standards and are not intended to represent the best possible practices or highest possible standards of a SANE.

§62.2. Definitions.

The following terms and abbreviations, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Chief--As used in this subchapter means the division chief of the OAG's Crime Victim Services Division.

(2) OAG--The Office of the Attorney General.

(3) OAG Sexual Assault Nurse Examiner (OAG SANE)--A person who holds an OAG SANE certification.

(4) OAG Sexual Assault Nurse Examiner Training Program (OAG SANE Training Program)--A training program approved by the OAG to provide Sexual Assault Nurse Examiner training.

(5) OAG SANE Certification--The formal process by which the OAG reviews and approves requests for OAG SANE Certification from qualified applicants set forth under this subchapter and on the OAG website.

(6) OAG SANE Certification Renewal--The formal process by which the OAG reviews and approves requests for OAG SANE Certification from an individual with a current OAG SANE Certification that continues to meet the minimum standards for OAG Certification set forth under this subchapter and on the OAG website.

(7) OAG SANE Training Program Certification--The formal process by which the OAG reviews and approves requests for OAG SANE Training Program Certification from qualified applicants set forth under this subchapter and on the OAG website.

(8) OAG SANE Training Program Renewal--The formal process by which the OAG reviews and approves requests for OAG SANE Training Program certification from a training program with a current OAG SANE Training Program Certification that continues to meet the minimum standards for OAG certification set forth under this subchapter and on the OAG website.

(9) Registered Nurse (RN)--A person who holds an active, unencumbered professional nursing license as a registered nurse issued by the Texas Board of Nursing, including an RN who practices in Texas pursuant to any multistate licensure privilege.

(10) Sexual Assault Medical Forensic Examination--A specialized examination provided to a victim of an alleged sexual assault as defined by Texas Government Code, Chapter 420, that uses an OAG-approved evidence collection kit and protocol.

(11) Sexual Assault Nurse Examiner (SANE)--A nurse who conducts sexual assault forensic medical examinations but does not hold an OAG SANE certification.

(12) Texas Board of Nursing (BON)--The Texas state agency responsible for regulating the practice of professional nursing, pursuant to the Nursing Practice Act, Texas Occupations Code.

§62.3. Standards for OAG SANE Training Program Certification.

(a) For a SANE training program to become certified as an OAG SANE Training Program, the program shall at a minimum, include provisions for the following:

(1) training, including but not limited to the following topics: dynamics of sexual assault, maltreatment of special populations, multidisciplinary team response to sexual assault, role of the advocate, historical perspective of the sexual assault nurse examiner, role and responsibilities of the SANE, vicarious trauma, regulatory laws and standards, criminal justice system and court appearances, the sexual assault medical forensic examination, treatment modalities and nursing care;

(2) clinical requirements; and

(3) courtroom observation requirements.

(b) A description of the minimum standards for each of the components of an OAG SANE Training Program is described on the OAG website.

(c) In developing the minimum standards for an OAG SANE Training Program, the OAG shall consult with individuals and organizations having knowledge and experience relating to sexual assault.

§62.4. OAG SANE and OAG SANE Training Program Certification Process.

(a) Applicants may seek an OAG SANE certification for adult/adolescent OAG SANE certification (CA-SANE) or pediatric OAG SANE certification (CP-SANE).

(b) To apply for an OAG SANE or OAG SANE Training Program certification, an applicant must meet the eligibility requirements specified for the certification and submit a written application with all required documentation, as described on the OAG website.

(c) All complete applications will be reviewed by the OAG for compliance with this subchapter. The applicant will be notified if an application is incomplete and the applicant may be asked to provide clarification or additional information.

(d) The OAG will make a decision on all complete applications and notify an applicant of the decision in writing.

(e) An applicant who has been denied an OAG certification may appeal using the process described in this subchapter.

(f) An OAG SANE or OAG SANE Training Program certification is valid for two years from the date it is issued.

§62.5. OAG SANE Certification Eligibility.

(a) To be eligible for an OAG SANE certification, an RN must:

(1) hold a current and unencumbered license with the Texas BON;

(2) have a minimum of two years clinical (direct contact with patients) experience as an RN within the last five years at the time the application for initial certification is submitted; and

(3) have completed an OAG SANE Training Program, including training, clinical requirements for the appropriate OAG SANE certification, and courtroom observation requirements, as described on the OAG website.

(b) An applicant may request a waiver of clinical experience, training, clinical requirements, or courtroom observation requirements by providing documentation that the applicant completed the equivalent of the training or requirements. Requests may be approved on a case-by-case basis.

(c) An applicant who maintains a SANE certification other than an OAG SANE certification may be eligible for an OAG SANE certification. Requests may be approved on a case-by-case basis.

§62.6. Renewal of an OAG SANE Certification.

(a) An application for renewal for an OAG SANE certification must be submitted and received by the OAG prior to the expiration of the existing OAG SANE certification.

(b) To be eligible to renew an OAG SANE certification, an RN must:

(1) hold a current and unencumbered license with the Texas BON;

(2) hold a current OAG SANE certification; and

(3) have completed the currency of practice requirements, as described on the OAG website.

(c) If the renewal application is received prior to the expiration of the OAG SANE certification, the certification shall continue in effect until the OAG makes a decision regarding the renewal.

(d) If the OAG SANE does not submit a renewal application prior to the expiration of the OAG SANE certification, the OAG SANE certification expires.

§62.7. Interstate Reciprocity.

(a) Registered nurses from other party or compact states, as recognized by the BON, with SANE education and clinical experience may apply for an OAG SANE certification.

(b) To be eligible, an RN must:

(1) hold a current and unencumbered license with the Texas BON; and

(2) meet the standards for an OAG SANE certification.

(c) Reciprocity for clinical experience, training, clinical requirements, or courtroom observation requirements may be approved on a case-by-case basis.

(d) Applicants seeking reciprocity may be required to take components of the OAG SANE Training Program. The required components of the training program will be determined on a case-by-case basis.

§62.8. Changes in Eligibility for OAG SANE Certification.

(a) An OAG SANE must notify the OAG, in writing, of any potential violation of the good professional character provisions used to determine eligibility and disciplinary matters as defined by the BON within five calendar days of the violation.

(b) Reportable events include any adverse licensure action by the BON or other state licensing authority.

(c) Failing to report a possible change in eligibility may result in suspension or revocation of an OAG SANE certification.

§62.9. OAG SANE Training Program Certification Eligibility.

(a) To be eligible for an OAG SANE Training Program Certification, a SANE training program must:

(1) substantially provide the same training components as the OAG SANE Training Program for the appropriate OAG SANE certification, as described on the OAG website; and

(2) be recognized by a credentialing agency that is approved by the BON.

(b) An OAG SANE Training Program has no authority to issue an OAG SANE certification.

§62.10. Renewal of OAG SANE Training Program Certification.

(a) An application for renewal of an OAG SANE Training Program certification must be submitted and received by the OAG prior to the expiration of the existing OAG SANE Training Program certification.

(b) To be eligible to renew an OAG SANE Training Program certification, the program must hold a current SANE Training Program certification.

(c) If the renewal application is received prior to expiration of the OAG SANE Training Program certification, the certification shall continue in effect until the OAG makes a decision regarding the renewal.

(d) If the OAG SANE Training Program does not submit a renewal application prior to the expiration of the OAG SANE Training Program certification, the OAG SANE Training Program certification expires.

§62.11. Changes in Eligibility for OAG SANE Training Program Certification.

An OAG SANE Training Program must notify the OAG of any changes which may result in the training program's failure to meet standards set forth under this subchapter and on the OAG website.

§62.12. Denial, Suspension, Decertification or Probation of OAG SANE or SANE Training Program Certification.

(a) An OAG SANE or OAG SANE Training Program certification may be denied, suspended, decertified or placed on probationary status for:

(1) failure to meet certification application requirements;

(2) failure to meet eligibility requirements;

(3) failure to timely report changes in eligibility;

(4) submission of false or forged documentation in support of the certification; or

(5) any other reason identified by the OAG.

(b) The OAG may investigate any information received that may result in denial, suspension, decertification, or probationary status of an OAG SANE or OAG SANE Training Program.

(c) The OAG will notify an applicant, the OAG SANE or the OAG SANE Training Program in writing, by registered or certified mail, of any decision to deny, decertify, suspend or probate a certification. The notice will contain the specific facts or conduct alleged to warrant the intended action. The OAG may request additional information needed to overturn the decision and provide information regarding the available administrative remedies under this subchapter.

(d) The OAG may reserve the right to make a decision regarding certification denial, suspension, decertification or probation until a complete application is received.

(e) Any information received by the OAG regarding an applicant, the OAG SANE or OAG SANE Training Program may be forwarded to the BON or credentialing agency.

§62.13. Administrative Remedies.

(a) Administrative appeals will be conducted in accordance with the Administrative Procedure Act (APA), Texas Government Code Chapter 2001.

(b) An applicant who disagrees with an OAG decision to deny, decertify, suspend or probate a certification under this subchapter may request, in writing, an opportunity to show compliance within 30 days of the decision. Upon receipt of a request for an opportunity to show compliance, the OAG will review the prior decision and any additional information submitted by the requestor. A decision on a request for an opportunity to show compliance will be issued by the OAG in writing, stating the legal authority for the decision, the particular sections of the statutes and rules involved, and a short, plain statement of the matters asserted. If an opportunity to show compliance does not result in the reversal of a prior OAG decision to deny, decertify, suspend or probate a certification under this subchapter, the applicant may request a contested case hearing, as defined under the APA. The procedure for contested cases will be governed by the APA and this subchapter.

(c) Upon request of the parties or on the hearing officer's own motion, the hearing officer may conduct a pre-hearing conference. The

hearing officer may notify the parties, in writing, of the disposition and rulings made on all matters considered at the pre-hearing conference.

(d) If, prior to a final decision by the OAG, the hearing officer is unable to continue to serve, the OAG may appoint another examiner to perform any remaining functions without the necessity of repeating previous proceedings.

(e) All hearings shall be open to the public, except as otherwise required by law, and shall be held telephonically, unless good cause and the public interest merit another place of hearing, as designated by the OAG.

(f) Hearings may be conducted by OAG employees designated as hearings officers. Subject to any limitations imposed by law or rule, the hearing officer shall have broad discretion in regulating the course and conduct of the hearing. The hearing officer shall have, but shall not be limited to, the following authority:

(1) to administer oaths and affirmations, issue subpoenas, authorize the taking of depositions and issue discovery orders as authorized by law, call and examine witnesses, receive and rule on the admissibility of evidence and amendments to pleadings, limit the number of witnesses whose testimony would be merely cumulative, set reasonable times within which a party may testify, cross-examine witnesses, or present evidence, and recess any hearing;

(2) to issue a final decision, including proposed findings of fact and conclusions of law, amend the final decision, or both, based upon post-hearing motions filed by the parties; and

(3) to take any other permissive action which is necessary for a fair, just, and proper hearing.

(g) An applicant who does not pursue the procedures described in the APA and in this subchapter will have failed to exhaust all available administrative remedies.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 20, 2013.

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Katherine Cary

General Counsel

Office of the Attorney General

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For further information regarding this publication, please contact Diane Morris at (512) 936-1180.



SUBCHAPTER B. SEXUAL ASSAULT TRAINING PROGRAM CERTIFICATION

1 TAC §§62.50 - 62.57

The Office of the Attorney General (OAG) proposes new Subchapter B, §§62.50 - 62.57, concerning Sexual Assault Training Program Certification. The proposal would update and streamline the procedures for certifying sexual assault training programs.

The OAG also proposes the repeal of §§62.74 - 62.86, the provisions that previously regulated the sexual assault advocate training programs. The proposed repeal is necessary to allow for the

updated and streamlined procedures. Additionally, the proposed repeal is to better organize the existing Chapter 62.

New §62.50 concerns Scope and Construction of Rules; new §62.51 concerns Definitions; new §62.52 concerns Standards for OAG Sexual Assault Training Program Certification; new §62.53 concerns OAG Sexual Assault Training Program Certification Process; new §62.54 concerns Changes in Eligibility; new §62.55 concerns Renewal of OAG Sexual Assault Training Program Certification; new §62.56 concerns Denial, Suspension, Decertification or Probation of a Sexual Assault Training Program Certification; and new §62.57 concerns Administrative Remedies.

Gene McCleskey, Director of the OAG Crime Victim Services Division, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. McCleskey also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to clarify and streamline the requirements for sexual assault training programs to become certified by the OAG and to maintain that certification. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Written comments on the proposal may be submitted for 60 days following the publication of this notice to Kaye Woodard-Hotz, Manager, Sexual Assault Prevention and Crisis Services Program, Crime Victim Services Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-6648, or Kaye.Woodard-Hotz@texasattorneygeneral.gov.

The new sections are proposed in accordance with Texas Government Code, §420.011(b), which authorizes the OAG to adopt rules establishing minimum standards for the certification of a sexual assault training program as well as the minimum standards for the suspension, decertification, or probation of a training program.

No other code, article or statute is affected by this proposal.

§62.50. Scope and Construction of Rules.

(a) This subchapter is intended to apply to the administration of the Sexual Assault Training Program Certification under the Sexual Assault Prevention and Crisis Services (SAPCS) Act, Texas Government Code, Chapter 420.

(b) If good cause is established to show that compliance with any part of this subchapter may result in an injustice to any party, these rules may be waived at the discretion of the chief.

(c) The Office of the Attorney General (OAG) may review, audit, or investigate any information submitted by any entity pursuant to this subchapter.

(d) This subchapter is intended to effectuate the purpose of Texas Code of Criminal Procedure Article 56.045 regarding the presence of an advocate or representative during a forensic medical examination for the collection of evidence for an alleged sexual assault.

(e) This subchapter is intended to effectuate the purposes of SAPCS Act by promoting the development throughout the state of locally based and supported nonprofit programs for the survivors of sexual assault and to standardize the quality of services provided.

(f) These are the minimum standards and are not intended to represent the best possible practices or highest possible standards of a Sexual Assault Training Program.

§62.51. Definitions.

The following terms and abbreviations, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Chief--As used in this subchapter means the division chief of the OAG's Crime Victim Services Division.

(2) Local program--A sexual assault program as defined by Texas Government Code, §420.003.

(3) Minimum Services--The following services to address sexual assault:

(A) a 24 hour crisis hotline;

(B) crisis intervention;

(C) public education;

(D) advocacy; and

(E) accompaniment to hospitals, law enforcement of fices, prosecutors' offices, and courts.

(4) OAG Sexual Assault Training Program--A local program that holds an OAG Sexual Assault Training Program certification.

(5) OAG Sexual Assault Training Program Certification--The formal process by which the OAG reviews and acknowledges that a local program offers or provides a training program which meets the standards set forth under this subchapter and on the OAG website.

(6) OAG Sexual Assault Training Program Certification Renewal--The formal process by which the OAG reviews and acknowledges that an OAG Sexual Assault Training Program continues to meet the standards set forth under this subchapter and on the OAG website.

§62.52. Standards for OAG Sexual Assault Training Program Certification.

(a) A local program to become certified as an OAG Sexual Assault Training program shall provide at least forty (40) hours of training, including but not limited to the following topics: dynamics of sexual assault, system response, prevention, working with survivors, local program information, forensic medical examinations for the collection of evidence, and the role of an advocate during the sexual assault forensic medical examination.

(b) A local program, at a minimum, shall include provisions for training employees or volunteers of a local program who provide any of the minimum services to address sexual assault.

(c) A local program shall train any advocate or individual who may be present during a forensic medical examination for the collection of evidence for an alleged sexual assault.

(d) A local program may also train other individuals regardless of their relationship or affiliation with the local program.

(e) Additional information regarding the OAG Sexual Assault Training Program certification process requirements and the minimum standards is described on the OAG website.

(f) In developing the minimum standards for an OAG Sexual Assault Training Program, the OAG shall consult with individuals and organizations having knowledge and experience relating to sexual assault.

§62.53. OAG Sexual Assault Training Program Certification Process.

(a) To apply for an OAG Sexual Assault Training Program certification, an applicant must meet the eligibility specified for the OAG Sexual Assault Training Program certification and submit a written application and the required documentation as described on the OAG website.

(b) All complete applications will be reviewed by the OAG for compliance with this subchapter. The applicant will be notified if an application is incomplete and the applicant may be asked to provide clarification or additional information.

(c) The OAG will make a decision on all complete applications and notify an applicant of the decision in writing.

(d) A local program who has been denied an OAG Sexual Assault Training Program certification may appeal using the process described in this subchapter.

(e) An OAG Sexual Assault Training Program certification is valid for two years from the date it is issued.

§62.54. Changes in Eligibility.

An OAG Sexual Assault Training Program must notify the OAG of any changes which may result in the local program's failure to meet standards set forth by this subchapter and on the OAG website.

§62.55. Renewal of OAG Sexual Assault Training Program Certification.

(a) An application for renewal of an OAG Sexual Assault Training Program certification must be submitted and received by the OAG prior to the expiration of the existing certification.

(b) To be eligible to renew an OAG Sexual Assault Training Program certification, the local program must hold a current OAG Sexual Assault Training Program certification.

(c) If the local program does not submit a renewal application prior to the expiration of the OAG Sexual Assault Training Program certification, the OAG Sexual Assault Training Program certification expires.

§62.56. Denial, Suspension, Decertification or Probation of a Sexual Assault Training Program Certification.

(a) An OAG Sexual Assault Training Program certification may be denied, suspended, decertified or placed on probationary status for:

(1) failure to meet certification application requirements;

(2) failure to meet eligibility requirements;

(3) failure to timely report changes in eligibility;

(4) submission of false or forged documentation in support of the certification; or

(5) any other reason identified by the OAG.

(b) The OAG may investigate any information received that may result in denial, suspension, decertification, or probationary status of an OAG Sexual Assault Training Program.

(c) The OAG will notify an applicant or the OAG Sexual Assault Training Program in writing, by registered or certified mail, of any decision to deny, decertify, suspend or probate a certification or renewal of a certification. The notice will contain the specific facts to warrant the intended action. The OAG may request additional information needed to overturn the decision and provide information regarding the available administrative remedies under this subchapter.

(d) The OAG may reserve the right to make a decision regarding certification denial, suspension, decertification or probation until a complete application is received.

§62.57. Administrative Remedies.

(a) Administrative appeals will be conducted in accordance with the Administrative Procedure Act (APA), Texas Government Code Chapter 2001.

(b) An applicant who disagrees with an OAG decision to deny, decertify, suspend or probate a certification under this subchapter may request, in writing, an opportunity to show compliance within 30 days of the decision. Upon receipt of a request for an opportunity to show compliance, the OAG will review the prior decision and any additional information submitted by the requestor. A decision on a request for an opportunity to show compliance will be issued by the OAG in writing, stating the legal authority for the decision, the particular sections of the statutes and rules involved, and a short, plain statement of the matters asserted. If an opportunity to show compliance does not result in the reversal of a prior OAG decision to deny, decertify, suspend or probate a certification under this subchapter, the applicant may request a contested case hearing, as defined under the APA. The procedure for contested cases will be governed by the APA and this subchapter.

(c) Upon request of the parties or on the hearing officer's own motion, the hearing officer may conduct a pre-hearing conference. The hearing officer may notify the parties, in writing, of the disposition and rulings made on all matters considered at the pre-hearing conference.

(d) If, prior to a final decision by the OAG, the hearing officer is unable to continue to serve, the OAG may appoint another examiner to perform any remaining functions without the necessity of repeating previous proceedings.

(e) All hearings shall be open to the public, except as otherwise required by law, and shall be held telephonically, unless good cause and the public interest merit another place of hearing, as designated by the OAG.

(f) Hearings may be conducted by OAG employees designated as hearings officers. Subject to any limitations imposed by law or rule, the hearing officer shall have broad discretion in regulating the course and conduct of the hearing. The hearing officer shall have, but shall not be limited to, the following authority:

(1) to administer oaths and affirmations, issue subpoenas, authorize the taking of depositions and issue discovery orders as authorized by law, call and examine witnesses, receive and rule on the admissibility of evidence and amendments to pleadings, limit the number of witnesses whose testimony would be merely cumulative, set reasonable times within which a party may testify, cross-examine witnesses, or present evidence, and recess any hearing;

(2) to issue a final decision, including proposed findings of fact and conclusions of law, amend the final decision, or both, based upon post-hearing motions filed by the parties; and

(3) to take any other permissive action which is necessary for a fair, just, and proper hearing.

(g) An applicant who does not pursue the procedures described in the APA and in this subchapter will have failed to exhaust all available administrative remedies.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 20, 2013.

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Katherine Cary

General Counsel

Office of the Attorney General

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For further information regarding this publication, please contact Diane Morris at (512) 936-1180.



SUBCHAPTER C. SEXUAL ASSAULT PROGRAM GRANTS

1 TAC §§62.502 - 62.509, 62.600 - 62.603, 62.700, 62.701

The Office of the Attorney General (OAG) proposes new Subchapter C, §§62.502 - 62.509, 62.600 - 62.603, 62.700, and 62.701, concerning Sexual Assault Program Grants. The proposal if adopted would place existing §§62.100 - 62.115, 62.200 - 62.203, 62.300 - 62.309, 62.400, 62.401, 62.500, and 62.501 in new Subchapter C of Chapter 62.

The OAG proposes the repeal of §§62.60 - 62.73 to assist in organizing the new subchapter pertaining to grant management requirements for sexual assault program grants. The proposed repeal is necessary to allow for the updated and streamlined procedures. Additionally, the proposed repeal is to better organize the existing Chapter 62. The repeal of §§62.60 - 62.73 will be the replacement of new §§62.502 - 62.509, 62.600 - 62.603, 62.700, and 62.701. No substantive changes, other than renumbering, are proposed.

Gene McCleskey, Director of the OAG Crime Victim Services Division, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. McCleskey also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to clarify and streamline the grant management requirements for sexual assault programs. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Written comments on the proposal may be submitted for 60 days following the publication of this notice to Kaye Woodard-Hotz, Manager, Sexual Assault Prevention and Crisis Services Program, Crime Victim Services Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-6648 or Kaye.Woodard-Hotz@texasattorneygeneral.gov.

The new sections are proposed in accordance with Texas Government Code, §420.005 and §420.011(a), which authorizes the OAG to adopt rules necessary to implement the law.

No other code, article or statute is affected by this proposal.

§62.502. Financial Reporting and Reimbursement.

(a) Because contracts awarded under this subchapter are reimbursement-only contracts, a contractor must submit financial status reports and invoices, as directed by the OAG.

(b) A contractor must ensure that its final invoice is received no later than the 45th calendar day after the end of the contract period

(liquidation date). If this date falls on a weekend or a holiday, then the OAG will honor receipt on the following business day. On the liquidation date, if contract funds are on hold for any reason, the funds will lapse and cannot be recovered by the contractor.

(c) Invoices received after the above deadline may not be paid by the OAG.

(d) If necessary, the OAG may allow an extension beyond the established deadline.

§62.503. Performance Reporting.

(a) A contractor must submit monthly statistical reports in the manner and form determined by the OAG. Failure to do so may result in the OAG placing a contractor on financial hold and may affect future funding requests.

(b) The OAG, or its designee, may assess contract effectiveness through review of required statistical reports, on-site visits, and/or desk reviews. Information relating to monthly performance reporting must be maintained by the contractor and must be available for review by the OAG or its designee.

(c) The OAG will provide quarterly concurrence reports to contractors to verify reported data. A contractor must review the quarterly reports, verify the data, and submit documentation of concurrence or correction.

§62.504. Inventory Reporting.

A contractor must maintain an inventory report of all equipment purchased as part of the contract on file at its principal office. The contractor must complete and submit to the OAG an inventory of contract property no later than the 60th calendar day after the end of the contract period. If this date falls on a weekend or holiday, the OAG will honor receipt on the following business day.

§62.505. Contract Adjustments.

(a) Within each fiscal year, a contractor may transfer funds between direct cost line items in different approved budget categories, not to exceed a cumulative total of ten percent of the approved contract budget during that year, without requesting a contract adjustment from the OAG.

(b) If it becomes necessary to move funds that are greater than ten percent of the total budget between existing budget categories, revise the scope or target of the contract, add new budget categories, or alter contract activities, a contractor must first request and receive approval from the OAG for a contract amendment.

(c) The OAG will allow only one contract amendment per state fiscal year unless:

(1) the contractor demonstrates circumstances that the OAG deems adequately extenuating; or

(2) the OAG requests the contract adjustment.

§62.506. Copyrights.

A contractor may use funds from the contract to produce original books, manuals, films, or other original material. The contractor may copy-right or patent such material subject to the royalty-free, non-exclusive, and irrevocable license to use the work and any modification to the work which is hereby granted to and retained by the federal government, the OAG, and Texas state government.

§62.507. Procurement, Property Management, and Contract Oversight Procedures.

A contractor shall use the procurement procedures, property management procedures, and contract oversight guidelines set forth in UGMS and all applicable OMB circulars. A contractor must comply with UGMS and all applicable federal, state and local laws and regulations.

§62.508. Maintenance of Records.

(a) The contractor shall maintain adequate records to support its charges, procedures, and performances to the OAG for all work related to the contract. The contractor also shall maintain such records as are deemed necessary by the OAG and auditors of the State of Texas, the United States, or such other persons or entities designated by the OAG, to ensure proper accounting for all costs and performances related to the contract. Such records include, but are not limited to:

(1) A copy of any required licenses or certifications of any individual who holds a contract-funded position;

(2) Time and attendance records for all contract-funded positions. These records must include the number of hours worked each day for the contract, the signature of the employee, and the signature of the supervisor. Any further documentation requested by the OAG shall be maintained by the contractor for audit and monitoring purposes;

(3) Documentation showing that the terms of any contract-funded, third-party contracts are being met;

(4) Adequate travel logs that include, at a minimum, dates, destinations, mileage amounts, expenses, and explanations of contract-related activities performed during the travel;

(5) Verification of completion of training and other related records;

(6) Records of the disposition, replacement, or transfer of any equipment purchased with contract funds. The retention period for these records begins on the date of the disposition, replacement or transfer; and

(7) Records of any litigation, claims, or audits involving the contract.

(b) The contractor shall maintain and retain for a period of four (4) years after the submission of the final expenditure report all such records as are necessary to fully disclose the extent of services provided under the contract. However, if four years after the submission of the final expenditure report, the records are subject to or implicated in pending litigation, claims, or audits, they must be retained until those matters have been fully and finally resolved.

(c) Records may be retained in an electronic format.

§62.509. Sanctions.

(a) Reimbursement for contract-related expenses is contingent upon a contractor's strict compliance with these rules, related requirements, and OAG procedures. Any failure to comply may result in the imposition of temporary or permanent sanctions or both.

(b) The OAG may place the contractor on probationary status and require the Sexual Assault Program to correct any deficiencies, undertake certain actions, and document such actions, including but not limited to:

(1) Additional Monitoring--accelerated or more detailed monitoring of the program;

(2) Written Corrective Action Plan--a detailed written plan with applicable time frames, to remedy the programmatic or contractual deficiency;

(3) Technical or Management Assistance--obtaining professional assistance to remedy the programmatic or contractual deficiency;

(4) Prior Approval--approval by the OAG prior to expenditure of contract funds; and/or

(5) Additional Reporting--additional, more detailed financial and/or programmatic reports or documentation.

(c) The OAG will notify a contractor if grounds for sanctions exist.

(d) If the contractor receives notice of grounds for sanctions and subsequently provides satisfactory evidence that the deficient condition has been corrected, the OAG may discontinue the sanctions.

§62.600. Violations of Laws.

A contractor must immediately provide notification to the OAG and, if applicable, the local prosecutor's office, of any knowledge, suspicion, or evidence of any violation of law that affects or is related to the contract. Such violations include misappropriation of funds, fraud, theft, embezzlement, forgery, or any serious irregularity or noncompliance with the requirements of this subchapter.

§62.601. Standards of Conduct.

(a) In making decisions affecting expenditures, a program receiving contract funds shall comply with the Texas Non-Profit Corporation Act, Tex. Rev. Civ. Stat. Ann. art. 1396-2.30.

(b) Contract personnel and officials must avoid any action that results in or creates the appearance of:

- (1) using their official positions for private gain;
- (2) giving preferential treatment to any person;
- (3) losing independent judgment or impartiality;
- (4) making an official decision outside of official channels;

or

(5) adversely affecting the confidence of the public in the integrity of the program or the OAG.

§62.602. Quality Assurance.

(a) Quality assurance reviews include programmatic monitoring, financial monitoring, and financial auditing.

(b) The OAG will conduct quality assurance reviews throughout the existence of a contract. A contractor must make all contract-related records available to OAG representatives unless the information is sealed by law.

(c) Quality assurance reviews may be on-site or desk reviews and may include any information that the OAG deems relevant to the contract.

(d) The OAG, or its designee, may make unannounced visits at any time.

(e) The OAG reserves the right to conduct its own audit or contract with another entity to audit any contractor.

(f) Based on the information gathered during monitoring or auditing, the OAG will issue a quality assurance report.

(g) A contractor must submit documentation to the OAG responding to any findings and questioned costs contained in the report.

(h) The quality assurance determination of the OAG is final and not subject to judicial review.

§62.603. Audit Standards.

(a) The OAG requires a contractor to conduct or undergo an annual audit of a contract, including sub-contracts, based on federal and state audit requirements and following audit standards set forth in UGMS and all applicable federal circulars.

(b) A contractor must submit to the OAG two copies of all audit reports, including audits as required in UGMS and all other audits that a contractor undergoes, regardless of the purpose. Such reports must be submitted to the OAG within 30 calendar days of completion.

(c) OAG contract funds may only be used for the fair and reasonable share of audit costs required by the OAG, in accordance with applicable federal and state cost principles.

§62.700. Suspension of Funds and Termination of SAPCS Contracts.

(a) If a contractor is notified of sanctions and fails to correct the deficient condition(s) in the time and manner as indicated by the OAG, the OAG may:

(1) Demand repayment of funds from the contractor to the OAG;

(2) Withhold or suspend reimbursement of all or part of the awarded funds pending compliance by the contractor or its subcontractor(s);

(3) Reduce the amount of the contract or award; or

(4) Terminate the contract. The OAG may require the contractor to return any equipment purchased with contract funds.

(b) If the contractor remains out of compliance with these rules, related requirements or OAG procedures, the OAG may deny future funding to the contractor.

§62.701. Appeal of Suspension of Funds or Termination of SAPCS Contracts.

(a) The OAG's decision to suspend funds or terminate contracts may be appealed by submitting a written request for a hearing no later than 10 days after the receipt of the OAG notification letter.

(b) The written request for a hearing must include:

(1) the reason for the appeal;

(2) documentation or information to support the appeal; and

(3) if necessary, the OAG must be granted access to information relevant to the appeal.

(c) The applicant is responsible for all costs incurred as a result of requesting a hearing, and those costs will not be reimbursed by the OAG.

(d) The OAG shall respond in writing to a request for a hearing with the following:

(1) instructions regarding the hearing process; and

(2) a request for additional documentation if necessary.

(e) The applicant has 30 days from the date of receipt of the OAG's request to supply additional documentation.

(f) The applicant shall receive a minimum of 10 days notice of their hearing date, time, and location.

(g) The hearing will be conducted by a designee of the Attorney General and shall take place either in person in Travis County, Texas, by telephone, or by videoconference, at the discretion of the OAG.

(h) At the hearing, the applicant may present testimony and documentation to refute suspension of funds or termination of contract by the OAG.

(i) Failure to appear or be available for the scheduled hearing, or failure to notify the OAG of an intended absence within 48 hours of the scheduled hearing, shall result in a final decision based on available information.

(j) As soon as practicable after the hearing the OAG will notify the applicant in writing of the final decision, including the reasons for the decision.

(k) In any proceeding under this subchapter, the burden of proof is on the applicant to submit evidence showing that grounds for continuation of funding exist.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 20, 2013.

TRD-201300730

Katherine Cary

General Counsel

Office of the Attorney General

Earliest possible date of adoption: April 7, 2013

For further information regarding this publication, please contact Diane Morris at (512) 936-1180.



1 TAC §§62.25 - 62.32, 62.60 - 62.86

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the Office of the Attorney General or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Office of the Attorney General (OAG) proposes the repeal of §§62.25 - 62.32 and 62.60 - 62.86, concerning Sexual Assault Prevention and Crisis Services, to allow for the updated and streamlined procedures. Additionally, the proposed repeal is to better organize the existing Chapter 62.

Gene McCleskey, Director of the OAG Crime Victim Services Division, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. McCleskey also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to clarify and streamline the requirements for a sexual assault nurse examiner to obtain and maintain certifications by the OAG, for grant management standards for sexual assault program grants and the requirements for a sexual assault advocate training program to obtain and maintain certifications by the OAG. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Written comments on the proposal may be submitted for 60 days following the publication of this notice to Kaye Woodard-Hotz,

Manager, Sexual Assault Prevention and Crisis Services Program, Crime Victim Services Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-6648 or Kaye.Woodard-Hotz@texasattorneygeneral.gov.

The repeal is proposed in accordance with Texas Government Code, §420.005 and §420.011(a), which authorizes the OAG to adopt rules necessary to implement the law.

No other code, article or statute is affected by this proposal.

§62.25. *Definitions.*

§62.26. *Requirements for Currency of Practice Certification.*

§62.27. *Clinical Hours.*

§62.28. *Applications for Currency of Practice.*

§62.29. *Continuing Education/Skill Maintenance.*

§62.30. *Appeals.*

§62.31. *Revocation of Certification.*

§62.32. *Appeals Process for Revocation of Certification.*

§62.60. *Financial Reporting and Reimbursement.*

§62.61. *Performance Reporting.*

§62.62. *Inventory Reporting.*

§62.63. *Contract Adjustments.*

§62.64. *Copyrights.*

§62.65. *Procurement, Property Management, and Contract Oversight Procedures.*

§62.66. *Maintenance of Records.*

§62.67. *Sanctions.*

§62.68. *Suspension of Funds and Termination of SAPCS Contracts.*

§62.69. *Appeal of Suspension of Funds or Termination of SAPCS Contracts.*

§62.70. *Violations of Laws.*

§62.71. *Standards of Conduct.*

§62.72. *Quality Assurance.*

§62.73. *Audit Standards.*

§62.74. *Advocate Training Certification.*

§62.75. *Definitions for an Advocate Training Program.*

§62.76. *Policy and Training Requirements for an Advocate Training Program.*

§62.77. *Trainers for an Advocate Training Program.*

§62.78. *Test Requirements for an Advocate Training Program.*

§62.79. *Continuing Education for an Advocate Training Program.*

§62.80. *Use of Advocates for an Advocate Training Program.*

§62.81. *Application Process for an Advocate Training Program.*

§62.82. *Verification.*

§62.83. *Certification Renewal of an Advocate Training Program.*

§62.84. *Suspension, Probation, or Decertification of an Advocate Training Program.*

§62.85. *Appeal of Denial, Suspension, or Decertification of an Advocate Training Program.*

§62.86. *Prehearing Conference for an Advocate Training Program.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 20, 2013.

◆ ◆ ◆
TITLE 10. COMMUNITY DEVELOPMENT

**PART 1. TEXAS DEPARTMENT OF
HOUSING AND COMMUNITY AFFAIRS**

**CHAPTER 5. COMMUNITY AFFAIRS
PROGRAMS**

SUBCHAPTER A. GENERAL PROVISIONS

10 TAC §§5.1, 5.2, 5.5, 5.8, 5.9, 5.14, 5.17, 5.21, 5.23

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 5, Subchapter A, §§5.1, 5.2, 5.5, 5.8, 5.9, 5.14, 5.17, 5.21, and 5.23, concerning General Provisions. The purpose of the proposed amendments is to clarify and simplify definitions, update timing of report submissions and subrecipient contract closeout, and make clerical corrections.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendments are in effect, enforcing or administering the amended sections does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendments will be increased clarity and simplification of the administration of the Department's Community Affairs programs. There will not be any economic cost to any individuals required to comply with the amended sections.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 8, 2013 to April 8, 2013, to receive input on the proposed amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email to the following address: cadrulecomments@tdhca.state.tx.us; or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. APRIL 8, 2013.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules; and Texas Government Code, Chapter 2306, Subchapter E, which authorizes the Department to administer its Community Affairs programs.

The proposed amendments affect no other code, article, or statute.

§5.1. Purpose and Goals.

(a) The rules established herein for Chapter 5 "Community Affairs Programs" Subchapter A "General Provisions" applies to all Community Affairs Division programs with the exception of the Section 8 Housing Choice Voucher Program. Refer to Subchapter H [F] of this chapter for the rules governing the Section 8 Housing Choice Voucher Program. Additional program specific requirements are contained within each program subchapter.

(b) The programs administered by the Community Affairs (CA) Division of the Texas Department of Housing and Community Affairs (the Department) support the Department's mission to help Texans achieve an improved quality of life through the development of better communities.

(c) The Department accomplishes this mission by acting as a conduit for federal grant funds for housing and community affairs programs. Ensuring program compliance with the state and federal laws that govern the CA programs is another important part of the Department's mission. Oversight and program mandates ensure state and federal resources are expended in an efficient and effective manner.

§5.2. Definitions.

(a) To ensure a clear understanding of the terminology used in the context of the Community Affairs Programs, a list of terms and definitions has been compiled as a reference.

(b) The words and terms in this chapter shall have the meanings described in this subsection unless the context clearly indicates otherwise.

(1) CAA--Community Action Agency.

(2) CFR--Code of Federal Regulations.

(3) Children--Household dependents not exceeding eighteen (18) years of age.

(4) Collaborative Application--An application from two or more organizations to provide services to the target population. If a unit of general local government applies for only one organization, this will not be considered a Collaborative Application. Partners in the Collaborative Application must coordinate services and prevent duplication of services.

(5) Community Action Agencies (CAAs)--Local private and public non-profit organizations that carry out the Community Action Program (CAP), which was established by the 1964 Economic Opportunity Act to fight poverty by empowering the poor in the United States. Each CAA must have a board consisting of at least one-third elected public officials, not fewer than one-third representatives of low-income individuals and families, chosen in accordance with democratic selection procedures, and the remainder are members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community.

(6) Community Action Plan--A plan required by the Community Services Block Grant (CSBG) Act which describes the local (Subrecipient) service delivery system, how coordination will be developed to fill identified gaps in services, how funds will be coordinated with other public and private resources and how the local entity will use the funds to support innovative community and neighborhood based initiatives related to the grant.

(7) Community Affairs Division (CAD)--The Division at the Department that administers CEAP, CSBG, ESGP, ESG, HHSP, Section 8 Housing Choice Voucher Program, and WAP.

(8) The Community Services Block Grant (CSBG)--A grant which provides U.S. federal funding for CAAs and other Eligible Entities that seek to address poverty at the community level. Like

other block grants, CSBG funds are allocated to the states and other jurisdictions through a formula.

(9) CSBG Act--The CSBG Act is a law passed by Congress authorizing the Community Services Block Grant. The CSBG Act was amended by the Community Services Block Grant Amendments of 1994 and the Coats Human Services Reauthorization Act of 1998 under 42 U.S.C. §§9901, et seq. The CSBG Act authorized establishing a community services block grant program to make grants available through the program to states to ameliorate the causes of poverty in communities within the states.

(10) Cooling--Modifications including, but not limited to, the repair or replacement of air conditioning units, evaporative coolers, and refrigerators.

(11) CSBG Subrecipient--Includes CSBG Eligible Entities and other organizations that are awarded CSBG funds.

(12) Declaration of Income Statement (DIS)--A Department approved form for use when an applicant has no documented proof of income.

(13) [(42)] Department--The Texas Department of Housing and Community Affairs.

(14) [(43)] Discretionary Funds--Those CSBG funds maintained in reserve by a state, at its discretion, for CSBG allowable uses as authorized by §675C of the CSBG Act, and not designated for distribution on a statewide basis to CSBG Eligible Entities and not held in reserve for state administrative purposes.

(15) [(44)] DOE--The United States Department of Energy.

(16) [(45)] DOE WAP Rules--10 CFR Part 440 describes the Weatherization Assistance for Low Income Persons as administered through the Department of Energy.

(17) [(46)] Dwelling Unit--A house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters. This definition does not apply to the ESG or HHSP.

(18) [(47)] Equipment--A tangible non-expendable personal property including exempt property, charged directly to the award, having a useful life of more than one year, and an acquisition cost of \$5,000 or more per unit. For CSBG, CEAP, and WAP, if the unit acquisition cost exceeds \$5,000, approval from the Department's Community Affairs Division must be obtained before the purchase takes place. For ESGP and ESG, if the unit acquisition cost exceeds \$500, approval from the Department's Community Affairs Division must be obtained before the purchase is made.

(19) [(48)] Elderly Person--A person who is sixty (60) years of age or older.

(20) [(49)] Electric Base-Load Measure--Weatherization measures which address the energy efficiency and energy usage of lighting and appliances.

(21) [(20)] Eligible Entity--Those local organizations in existence and designated by the federal government to administer programs created under the federal Economic Opportunity Act of 1964. This includes community action agencies, limited-purpose agencies, and units of local government. The CSBG Act defines an eligible entity as an organization that was an eligible entity on the day before the enactment of the Coats Human Services Reauthorization Act of 1998 (October 27, 1998), or is designated by the Governor to serve a given area of the state and that has a tripartite board or other mechanism specified by the state for local governance.

(22) [(24)] Emergency--Defined by the LIHEAP Act of 1981 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981, 42 U.S.C. §8622):

(A) natural disaster;

(B) a significant home energy supply shortage or disruption;

(C) significant increase in the cost of home energy, as determined by the Secretary;

(D) a significant increase in home energy disconnections reported by a utility, a state regulatory agency, or another agency with necessary data;

(E) a significant increase in participation in a public benefit program such as the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. §§2011, et seq.), the national program to provide supplemental security income carried out under Title XVI of the Social Security Act (42 U.S.C. §§1381, et seq.) or the state temporary assistance for needy families program carried out under Part A of Title IV of the Social Security Act (42 U.S.C. §§601, et seq.), as determined by the head of the appropriate federal agency;

(F) a significant increase in unemployment, layoffs, or the number of Households with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or

(G) an event meeting such criteria as the Secretary, at the discretion of the Secretary, may determine to be appropriate.

(H) This definition does not apply to ESGP, ESG, or HHSP.

(23) [(22)] Emergency Shelter Grants Program (ESGP)--A federal grant program established by the Homeless Housing Act of 1986 and incorporated into Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. §§11371 - 11378) and funded through HUD.

(24) [(23)] Emergency Solutions Grants (ESG)--A federal grant program authorized in Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. §§11371 - 11378), as amended by the Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH Act). ESG is funded through HUD.

(25) [(24)] Energy Audit--The energy audit software and procedures used to determine the cost effectiveness of weatherization measures to be installed in a dwelling unit.

(26) [(25)] Energy Repairs--Weatherization-related repairs necessary to protect or complete regular weatherization energy efficiency measures.

(27) [(26)] Families with Young Children--A family that includes a child age five (5) or younger.

(28) [(27)] High Energy Burden--Households with energy burden which exceeds 11% of annual gross income. Determined by dividing a Household's annual home energy costs by the Household's annual gross income. [The percentage at which energy burden is considered high is defined by data gathered from the State Data Center.]

(29) [(28)] High Energy Consumption--Household energy expenditures exceeding the median of low-income home energy expenditures, by way of example, at the time of this rulemaking, that amount is \$1,000, but is subject to change. [expressed in the data collected from the State Data Center.]

(30) [(29)] Homeless or homeless individual--An individual as defined by 42 U.S.C. §§11371 - 11378 and 24 CFR §576.2.

(31) [(30)] Homeless and Housing Services Program (HHSP)--A state funded program established by the State Legislature during the 81st Legislative session with the purpose of providing funds to local programs to prevent and eliminate homelessness in municipalities with a population of 285,500 or more.

(32) [(31)] Household--Any individual or group of individuals who are living together as one economic unit. For energy programs, these persons customarily purchase residential energy in common or make undesignated payments for energy.

(33) [(32)] Inverse Ratio of Population Density Factor--The number of square miles of a county divided by the number of poverty Households of that county.

(34) [(33)] Local Units of Government--City, county, council of governments, and housing authorities.

(35) [(34)] Low Income--Income in relation to family size and that governs eligibility for a program:

(A) For DOE WAP, at or below 200% of the DOE Income guidelines;

(B) For CEAP, CSBG, and LIHEAP WAP at or below 125% of the HHS Poverty Income guidelines;

(C) For ESGP, at or below 100% of the poverty level, determined in accordance with criteria established by the Director of the Office of Management and Budget;

(D) For ESG, 30% of the Area Median Income (AMI) as defined by HUD's Section 8 Income Limits [HUD] for persons receiving prevention assistance; and

(E) For HHSP, 80% [50%] of the AMI as defined by HUD's Section 8 Income Limits. [HUD for persons receiving emergency essential services, essential services, and emergency intervention assistance.]

(36) [(35)] Low Income Home Energy Assistance Program (LIHEAP)--A federally funded block grant program that is implemented to serve low income Households who seek assistance for their home energy bills and/or weatherization services.

(37) [(36)] Migrant Farm worker--An individual or family that is employed in agricultural labor or related industry and is required to be absent overnight from their permanent place of residence.

(38) [(37)] Modified Cost Reimbursement--A contract sanction whereby reimbursement of costs incurred by the Subrecipient is made only after the Department has reviewed and approved backup documentation provided by the Subrecipient to support such costs.

(39) [(38)] Multifamily Dwelling Unit--A structure containing more than one dwelling unit. This definition does not apply to ESGP, ESG, or HHSP.

(40) [(39)] National Performance Indicator--An individual measure of performance within the Department's reporting system for measuring performance and results of Subrecipients of funds. [There are currently twelve indicators of performance which measure self-sufficiency, family stability, and community revitalization.]

(41) [(40)] Needs Assessment--An assessment of community needs in the areas to be served with CSBG funds. [The assessment is a required part of the Community Action Plan per Assurance 11 of the CSBG Act.]

(42) [(41)] OMB--Office of Management and Budget, a federal agency.

(43) [(42)] OMB Circulars--OMB circulars set forth principles and standards for determining costs for federal awards and establishes consistency in the management of grants for federal funds. Cost principles for local governments are set forth in Office of Management and Budget (OMB) Circular A-87, and for non-profit organizations in OMB Circular A-122. Uniform administrative requirements for local governments are set forth in OMB Circular A-102, and for non-profits in OMB Circular A-110. OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations," provides audit standards for governmental organizations and other organizations expending federal funds. [The single audit requirements are set forth under OMB Circular A-133.]

(44) [(43)] Outreach--The method that attempts to identify clients who are in need of services, alerts these clients to service provisions and benefits, and helps them use the services that are available. Outreach is utilized to locate, contact and engage potential clients.

(45) [(44)] Performance Statement--A document which identifies the services to be provided by a [CSBG] Subrecipient. [The document is an attachment to the CSBG contract entered into by the Department and the CSBG Subrecipient.]

(46) [(45)] Persons with Disabilities--Any individual who is:

(A) a handicapped individual as defined in §7(9) of the Rehabilitation Act of 1973;

(B) under a disability as defined in §1614(a)(3)(A) or §223(d)(1) of the Social Security Act or in §102(7) of the Developmental Disabilities Services and Facilities Construction Act; or

(C) receiving benefits under 38 U.S.C. Chapter 11 or 15.

(47) [(46)] Population Density--The number of persons residing within a given geographic area of the state.

(48) [(47)] Poverty Income Guidelines--The official poverty income guidelines as issued by the U.S. Department of Health and Human Services annually.

(49) [(48)] Private Nonprofit Organization--An organization described in §501(c) of the Internal Revenue Code (the "Code") of 1986 and which is exempt from taxation under subtitle A of the Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance. Private nonprofit organizations applying for ESGP, ESG and HHSP funds must be established for charitable purposes and have activities that include, but are not limited to, the promotion of social welfare and the prevention or elimination of homelessness. The entity's net earnings may not inure to the benefit of any individual(s).

(50) [(49)] Public Organization--A unit of local government, as established by the Legislature of the State of Texas. Includes, but may not be limited to, cities, counties, and councils of governments.

(51) [(50)] Referral--The process of providing information to a client Household about an agency, program, or professional person that can provide the service(s) needed by the client.

(52) [(51)] Rental Unit--A dwelling unit occupied by a person who pays rent for the use of the dwelling unit. This definition does not apply to ESGP, ESG, or HHSP.

(53) [(52)] Renter--A person who pays rent for the use of the dwelling unit. This definition does not apply to ESGP, ESG, or HHSP.

(54) [(53)] Seasonal Farm Worker--An individual or family that is employed in seasonal or temporary agricultural labor or related industry and is not required to be absent overnight from their permanent place of residence. In addition, at least 20% of the Household annualized income must be derived from the agricultural labor or related industry.

(55) [(54)] Secretary--Chief Executive of the U.S. Department of Health and Human Services.

(56) [(55)] Service--The provision of work or labor that does not produce a tangible commodity.

(57) [(56)] Shelter--Defined by the Department as a dwelling unit or units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities.

(58) Single Audit--As defined in the Single Audit Act of 1984 (as amended).

(59) [(57)] Single Family Dwelling Unit--A structure containing no more than one dwelling unit. This definition does not apply to ESGP, ESG, or HHSP.

(60) [(58)] Social Security Act--As defined in 42 U.S.C. §§601, et seq. [CSBG works with activities carried out under Title IV Part A to assist families to transition off of state programs.]

(61) [(59)] State--The State of Texas or the Texas Department of Housing and Community Affairs.

(62) [(60)] Subcontractor--A person or an organization with whom the Subrecipient contracts with to administer programs.

(63) [(61)] Subrecipient--Generally, an organization with whom the Department contracts and provides CSBG, ESGP, CEAP, ESG, HHSP, DOE WAP, or LIHEAP funds. (Refer to Subchapters B, C, D - G, J, and K of this chapter for program specific definitions.)

(64) [(62)] Supplies--All personal property excluding equipment, intangible property, and debt instruments, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement (subject inventions), as defined in 37 CFR Part 401, "Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."

(65) [(63)] TAC--Texas Administrative Code.

(66) [(64)] Targeting--Focusing assistance to Households with the highest program applicable needs.

(67) [(65)] Terms and Conditions--Binding provisions provided by a funding organization to grantees accepting a grant award for a specified amount of time.

(68) [(66)] Treatment as a State or Local Agency--For purposes of 5 U.S.C. Chapter 15, any entity that assumes responsibility for planning, developing, and coordinating activities under the CSBG Act and receives assistance under CSBG Act shall be deemed to be a state or local agency.

(69) [(67)] Units of General Local Government--A unit of local government which has, among other responsibilities, the authority to assess and collect local taxes and to provide general governmental services.

(70) [(68)] U.S.C.--United States Code.

(71) [(69)] USDHHS/HHS--U.S. Department of Health and Human Services.

(72) [(70)] USHUD/HUD--U.S. Department of Housing and Urban Development.

(73) [(71)] Vendor Agreement--An agreement between the Subrecipient and energy vendors that contains assurance as to fair billing practices, delivery procedures, and pricing for business transactions involving ESG and LIHEAP beneficiaries.

(74) [(72)] WAP--Weatherization Assistance Program.

(75) [(73)] WAP PAC--Weatherization Assistance Program Policy Advisory Council. The WAP PAC was established by the Department in accordance with 10 CFR §440.17 to provide advisory services in regards to the WAP program.

(76) [(74)] Weatherization Material--The material listed in Appendix A of 10 CFR Part 440.

(77) [(75)] Weatherization Project--A project conducted [in a single geographical area which undertakes] to reduce heating and cooling demand of dwelling units that are energy inefficient.

§5.5. *Lobbying Activities.*

(a) Subrecipients of federal funding, including those who receive federal funds through the Department, are subject to the anti-lobbying provisions commonly referred to as "the Byrd Amendments" (31 U.S.C. §1352). The legislation imposes certain requirements for disclosure and certification on recipients of federal contracts, grants, cooperative agreements, and loans, including the requirement that each recipient of a federal contract in excess of \$100,000 must complete the Standard Form-LLL "Disclosure of Lobbying Activities" form. A completed form must be submitted to the Department prior to engaging in lobbying activities. The Subrecipient must also file quarterly updates about its employment of lobbyists if material changes occur in the organization's use of lobbyists.

[(b) A §501(c)(3) nonprofit organization which pays any person funds from any source (even non-federal funds) to lobby Congress or which pays an employee of any federal agency in connection with this grant, must complete the "Disclosure of Lobbying Activities" form available on the U.S. Department of Health and Human Services (USDHHS) website. A completed form must be submitted to the Department prior to engaging in lobbying activities. The Subrecipient must also file quarterly updates about its employment of lobbyists if material changes occur in the organization's use of lobbyists.]

[(c) For each contract, grant, cooperative agreement, or loan in excess of \$100,000, the Subrecipient must complete the "Certification Regarding Lobbying" form and return it to the Department. This form is located on the USDHHS website. By completing the certification, the Subrecipient verifies that no federally appropriated funds have been used to lobby the United States Congress in connection with the awarding or modifying of a federal contract, loan, cooperative agreement or grant.]

(b) [(d)] Pursuant to the 1996 Simpson-Craig Amendment to the Lobbying Disclosure Act, 2 U.S.C. §1611, §501(c)(4) non-profit organizations, typically civic leagues or employee associations, may not receive any federal funding if such organizations engage in lobbying. The law establishes civil penalties for noncompliance, with possible penalties ranging from \$10,000 to \$100,000.

(c) [(e)] Pursuant to the Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Non-Profit Organizations," specifically §25 titled "Lobbying," costs associated with lobbying are unallowable.

§5.8. *Inventory Report.*

(a) The Department requires the submission of an inventory report on an annual basis to be submitted to the Department, no later

than forty-five (45) ~~[sixty (60)]~~ days after the original end date of the contract.

(b) Vehicles, tools, and equipment purchased with funds under a contract with the Department, must be inventoried and reported to the Department during the contract period.

(c) The inventory report is cumulative and is used for vehicles, tools, and equipment with a useful life of one year or more and a unit acquisition cost of greater than \$5,000 for CSBG, CEAP, and WAP and greater than \$500 for ESG, ESGP, and HHSP. Property must be inventoried and reported on the Cumulative Inventory Report form. The form and instructions are found on the Department's website.

§5.9. Travel.

The governing body of each Subrecipient must adopt ~~[and submit to the Department approved]~~ travel policies that adhere to Office of Management and Budget (OMB) Circulars A-87, A-110, A-122, for cost allowability. The Subrecipient must follow either the federal travel regulations or State of Texas travel rules and regulations found on the Comptroller of Public Accounts website at www.cpa.state.tx.us. ~~[If the travel policy and procedures are revised they must be submitted to the Department.]~~

§5.14. Subrecipient Contract.

(a) Upon Board approval, the Department and Subrecipient shall enter into an agreement for the receipt of funds. The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver authorized modifications and/or amendments to the contract.

(b) The governing body of the Subrecipient must pass a resolution authorizing its Executive Director or his/her designee to have signature authority to enter into contracts, sign amendments, and review and approve reports. All contract actions including extensions, amendments or revisions must be ratified by the governing body at the next regularly scheduled meeting. Minutes relating to this resolution must be on file at the Subrecipient level.

(c) Within forty-five (45) ~~[sixty (60)]~~ days following the conclusion of a contract issued by the Department, the Subrecipient shall provide a final expenditure and final performance report regarding [full accounting of] funds expended under the terms of the contract.

(d) Failure of a Subrecipient to provide a final expenditure and final performance report [an accounting] of funds expended under the terms of the contract may be sufficient reason for the Department to deny any future contract to the Subrecipient.

§5.17. Sanctions and Contract Close Out.

(a) Subrecipients that enter into a contract with the Department to administer programs are required to follow state and federal laws and regulations and rules governing these programs.

(b) If a Subrecipient fails to comply with program and contract requirements, rules, or regulations and in the event monitoring or other reliable sources reveal material deficiencies in performance, or if the Subrecipient fails to correct any deficiency within the time allowed by federal or state law, the Department will apply one or more of the sanctions described in paragraph (1)(A) - (E) of this subsection:

(1) Deny the Subrecipient's requests for advances and place it on a Modified Cost Reimbursement method of payment until proof of compliance with the rules and regulations are received by the Department;

(A) Subrecipients placed on a Modified Cost Reimbursement method of payment must comply with the reporting requirements outlined in §5.211 of this chapter (relating to Subrecipient Reporting Requirements); §5.311 of this chapter (relating to

Reports); §5.406 of this chapter (relating to Subrecipient Reporting Requirements); §5.506 of this chapter (relating to Subrecipient Reporting Requirements); §5.1006 of this chapter (relating to Performance and Expenditure Benchmarks); and §5.2007 of this chapter (relating to Reporting), as applicable;

(B) Subrecipients on a Modified Cost Reimbursement method must provide all supporting documentation to the Department no later than seven (7) days after the reporting due date;

(C) If Subrecipient has not submitted documentation required for cost reimbursement review in accordance with reporting deadlines, Subrecipient will be required to enter a monthly report containing zero amounts and submit documentation required for the review as part of the next's month reporting;

(D) Subrecipients reporting a monthly report containing zero amounts throughout the program year shall submit all required support documentation to the Department for review by the last regular monthly report (before the final report); and/or

(E) The Department will review and assess supporting documentation submitted by Subrecipient no later than the seventh (7th) day of the following month.

(2) Withhold all payments from the Subrecipient (both reimbursements and advances) until proof of compliance with the rules and regulations are received by the Department, reduce the allocation of funds (with the exception of Community Services Block Grant (CSBG) funds to Eligible Entities as described in §5.206 of this chapter (relating to Termination and Reduction of Funding) and as limited for LIHEAP funds as outlined in Texas Government Code, Chapter 2105) or impose sanctions as deemed appropriate by the Department's Executive Director, at any time, if the Department identifies possible instances of fraud, waste, abuse, fiscal mismanagement, or other serious deficiencies in the Subrecipient's performance;

(3) Suspend performance of the contract or reduce funds until proof of compliance with the rules and regulations are received by the Department or a decision is made by the Department to initiate proceedings for contract termination;

(4) Elect not to provide future grant funds to the Subrecipient until appropriate actions are taken to ensure compliance; or

(5) Terminate the contract. Adhering to the requirements governing each specific program administered by the Department, as needed, the Department may determine to proceed with the termination of a contract, in whole or in part, at any time the Department establishes there is good cause for termination. Such cause may include, but is not limited to, fraud, waste, abuse, fiscal mismanagement, or other serious deficiencies in the Subrecipient's performance. For CSBG contract termination procedures, please refer to §5.206 of this chapter.

(c) Contract Close-out. When the Department moves to terminate a contract, the procedures described in paragraphs (1) - (12) of this subsection will be implemented.

(1) The Department will issue a termination letter to the Subrecipient no less than thirty (30) days prior to terminating the contract. The Department may determine to take one of the following actions: suspend funds immediately; establish a Modified Cost Reimbursement plan for closeout proceedings; or provide instructions to the Subrecipient to prepare a proposed budget and written plan of action that supports the closeout of the contract. The plan must identify the name and current job titles of staff that will perform the close-out and an estimated dollar amount to be incurred.

(2) If the Department determines that a Modified Cost Reimbursement is an appropriate method of providing funds to accom-

plish closeout, the Subrecipient will submit backup documentation for all current expenditures associated with the closeout. The required documentation will include, but not be limited to, the chart of accounts, detailed general ledger, revenue and expenditure statements, time sheets, payment vouchers and/or receipts, and bank reconciliations.

(3) No later than thirty (30) days after the contract is terminated, the Subrecipient will take a physical inventory of client files, including case management files, and will submit to the Department an inventory of equipment with a unit acquisition cost of \$5,000 or greater for Comprehensive Energy Assistance Program (CEAP), Weatherization Assistance Program (WAP) and Community Services Block Grant (CSBG) or a unit acquisition cost of \$500 or greater for ESGP, ESG, and HHSP.

(4) The terminated Subrecipient will have thirty (30) days from the date of the physical inventory to copy all current client files. Client files must be boxed by county of origin. Current and active case management files also must be copied, inventoried, and boxed by county of origin.

(5) Within thirty (30) days following the Subrecipient's due date for copying and boxing client files, Department staff will retrieve copied client files.

(6) The terminated Subrecipient will prepare and submit no later than sixty (60) days from the date the contract is terminated, a final report containing a full accounting of all funds expended under the contract.

(7) A final monthly expenditure report and a final monthly performance report for all remaining expenditures incurred during the close-out period must be received by the Department no later than sixty (60) days from the date the Department determines that the closeout of the program and the period of transition are complete.

(8) The Subrecipient will submit to the Department no later than sixty (60) days after the termination of the contract, an inventory of the non-expendable personal property acquired in whole or in part with funds received under the contract.

(9) The Department may transfer title to equipment having a unit acquisition cost (the net invoice unit price of an item of equipment) of:

(A) \$5,000 or greater for CEAP, CSBG, and WAP; or

(B) \$500 or greater for ESG, ESGP, and HHSP, to the Department or to any other entity receiving funds under the program in question. The Department will make arrangements to remove equipment covered by this paragraph within ninety (90) days following termination of the contract.

(10) Upon selection of a new service provider, the Department will transfer to the new provider client files and, as appropriate, equipment.

(11) As required by OMB Circular A-133, a current year Single Audit [single audit] must be performed for all agencies that have exceeded the federal expenditure threshold under OMB Circular A-133. The Department will allow a proportionate share of program funds to pay for accrued audit costs, when an audit is required, for a Single Audit [single audit] that covers the date up to the closeout of the contract. The terminated Subrecipient must have a binding contract with a CPA firm on or before the termination date of the contract. The actual costs of the Single Audit [single audit] and accrued audit costs including support documentation must be submitted to the Department

no later than sixty (60) days from the date the Department determines the close-out is complete.

(12) Subrecipients shall submit within sixty (60) days after the date of the close-out process all financial, performance, and other applicable reports to the Department. The Department may approve extensions when requested by the Subrecipient. However, unless the Department authorizes an extension, the Subrecipient must abide by the sixty (60) day contractual requirement of submitting all referenced reports and documentation to the Department.

§5.21. Subrecipient Contact Information.

(a) In accordance with §1.22 of this title (relating to Providing Contact Information to the Department), Subrecipients will notify the Department [Community Affairs Division (CAD)] and provide contact information for key management staff (Executive Director, Chief Financial Officer, Program Director/Manager/Coordinator) vacancies and new hires within thirty (30) days of such occurrence. [Contact information will include, name, title, phone number, and direct email address.]

(b) As vacancies exceed the ninety (90) day threshold within the organization's board of directors, the Department [CAD] will be notified of such vacancies and, if applicable, the sector the board member represented.

(c) Contact information for the board of director's board chair must be provided to the Department [CAD] and shall include: the board chair's name, mailing address (which must be different from the organization's mailing address), phone number (different from the organization's phone number), fax number (if applicable), and the direct e-mail address for the board chair.

§5.23. Protected Health Information.

Except as required by federal law, Subrecipients [are prohibited and] shall not collect or maintain from any applicant protected health information [from any applicant] as defined in the Texas Health and Safety Code, Subtitle I, Chapter 181.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300867

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 475-3916



SUBCHAPTER E. WEATHERIZATION ASSISTANCE PROGRAM GENERAL

10 TAC §§5.502, 5.503, 5.505 - 5.508, 5.521 - 5.525, 5.531, 5.532

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 5, Subchapter E, §§5.502, 5.503, 5.505 - 5.508, 5.521 - 5.525, 5.531, and 5.532, concerning Weatherization Assistance Program General. The purpose of the proposed amendments is to

strengthen leveraging guidelines, update timing of report submissions and subrecipient contract closeout, update eligibility requirements related to client appeals, Energy Burden, and Energy consumption, and to affect grammatical and capitalization matters.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendments are in effect, enforcing or administering the amended sections does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendments will be increased clarity and simplification of the administration of the Department's Community Affairs programs. There will not be any economic cost to any individuals required to comply with the amended sections.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 8, 2013 to April 8, 2013, to receive input on the proposed amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email to the following address: cadrulecomments@tdhca.state.tx.us; or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. APRIL 8, 2013.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules; and Texas Government Code, Chapter 2306, Subchapter E, which authorizes the Department to administer its Community Affairs programs.

The proposed amendments affect no other code, article, or statute.

§5.502. Purpose and Goals.

(a) DOE-WAP and LIHEAP-WAP offers grants to Community Action Agencies [~~community action agencies~~], nonprofits, and Public Organizations [~~units of local government~~] with targeted beneficiaries being households with low incomes, with priority given to the Elderly [~~elderly~~]; Persons with Disabilities [~~persons with disabilities~~]; Families with Young Children [~~families with young children~~]; Households [~~households~~] with the highest energy costs or needs in relation to income; and Households [~~households~~] with High Energy Consumption [~~high energy consumption~~]. In addition to meeting the income-eligibility criteria, the weatherization measures to be installed must meet specific energy-savings goals.

(b) The programs fund the installation of weatherization materials and provide energy conservation education. The programs help [~~program helps to~~] control energy costs to ensure a healthy and safe living environment.

(c) The Department shall administer and implement the DOE-WAP program in accordance with DOE rules (10 CFR Part 440). The Department shall administer and implement the LIHEAP-WAP program in accordance with a combination of LIHEAP law (42 U.S.C. §§6861, et seq.) and DOE rules. LIHEAP weatherization measures may be leveraged with DOE weatherization measures. If Subrecipient leverages with any DOE weatherization funds, all DOE rules and requirements will apply.

§5.503. Distribution of WAP Funds.

(a) The Department distributes funds to Subrecipients [~~subrecipients~~] by an allocation formula.

(b) The allocation formula allocates funds based on the number of low-income households in a service area and takes into account the special needs of individual service areas. The need for energy assistance in an area is addressed through a weather factor (based on heating and cooling degree days). The extra expense in delivering services in sparsely populated areas is addressed by an inverse population density factor. The lack of additional services available in very poor counties is addressed by a county median income factor. Finally, the Elderly [~~elderly~~] are given priority by giving greater weight to this population. The five factors used in the formula are calculated as follows:

(1) County Non-Elderly [~~Non-elderly~~] Poverty Household Factor is defined as the number of Non-Elderly [~~Non-elderly~~] Poverty Households in the County divided by the number of Non-Elderly [~~Non-elderly~~] Poverty Households in the state [~~State~~];

(2) County Elderly Poverty Household Factor is defined as the number of Elderly Poverty Households in the County divided by the number of Elderly Poverty Households in the state [~~State~~];

(3) County Inverse Poverty Household Density Factor is defined as:

(A) The number of Square Miles of the County divided by the number of Poverty Households of the County (equals the Inverse Poverty Household Density of the County); and

(B) Inverse Poverty Household Density of the County divided by the Sum of Inverse Household Densities.

(4) County Median Income Variance Factor is defined as:

(A) State Median Income minus the County Median Income (equals County Variance); and

(B) County Variance divided by sum of the State County Variances;

(5) County Weather Factor is defined as:

(A) County Heating Degree Days plus the County Cooling Degree Days, multiplied by the Poverty Households, divided by the sum of County Heating & Cooling Degree Days of Counties (equals County Weather); and

(B) County Weather divided by the total sum of the State County Weather.

(C) The five factors carry the following weights in the allocation formula: number of Non-Elderly [~~non-elderly~~] poverty households (40%), number of poverty households with at least one member who is sixty-five (65) years of age or older (40%), household density as an inverse ratio (5%), the median income of the county (5%), and a weather factor based on Heating Degree Days and Cooling Degree Days (10%). All demographic factors are based on the most current decennial U.S. Census. The formula is as follows:

(i) County Non-Elderly [~~Non-elderly~~] Poverty Household Factor (0.40) plus;

(ii) County Elderly Poverty Household Factor (0.40) plus;

(iii) County Inverse Poverty Household Density Factor (0.05) plus;

(iv) County Median Income Variance Factor (0.05) plus;

(v) County Weather Factor (0.10);

(vi) Total sum of clauses (i) - (v) of this subparagraph multiplied by total funds allocation equals the County's allocation of funds.

(vii) The sum of the county allocation within each Subrecipient [subrecipient] service area equals the Subrecipient's [subrecipient's] total allocation of funds.

§5.505. Subrecipient Requirements for Appeals Process for Applicants.

(a) Subrecipients shall establish a denial of service complaint procedure to address written complaints from program applicants/clients. At a minimum, the procedures described in paragraphs (1) - (8) of this subsection shall be included:

(1) [(a)] Subrecipients shall provide a written denial of assistance notice to applicant within ten (10) days of the adverse determination. If the denial is for any reason other than DOE reweatherization, as defined [specified] in 10 CFR Part 440, the Subrecipient [subrecipient] will notify the applicant of the adverse determination. This notification shall include written notice of the right of a hearing [instructions of the appeals process] and specific reasons for the denial. The applicants wishing to appeal a decision must provide written notice to Subrecipient [subrecipient] within ten (10) days of receipt of the denial notice.

(2) [(b)] The Subrecipient [subrecipient] who receives an appeal shall establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their client files.

(3) [(c)] The Subrecipient [subrecipient] shall hold the appeal hearing within ten (10) business days after the Subrecipient [subrecipient] received the appeal request from the applicant.

(4) [(d)] The Subrecipient [subrecipient] shall record the hearing and provide a copy of the recording to the Department in an acceptable digital format, i.e. cd, wmv, mp3, etc.

(5) [(e)] The hearing shall allow time for a statement by Subrecipient [subrecipient] staff with knowledge of the case.

(6) [(f)] The hearing shall allow the applicant at least equal time, if requested, to present relevant information contesting the decision.

(7) [(g)] Subrecipient shall notify applicant of the decision in writing. The Subrecipient [subrecipient] shall mail the notification by close of business on the business day following the decision (one (1) day turn-around).

(8) If the denial is solely based on income eligibility, the provisions described in paragraphs (2) - (7) of this subsection do not apply, and the applicant may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and will be performed by an individual other than the person who performed the initial determination. If the recertification upholds the denial based on income eligibility documents provided at the initial application, the applicant is notified in writing and no further appeal is afforded to the applicant.

(b) [(h)] If the applicant is not satisfied, they may further appeal the decision in writing to the Department within ten (10) days of notification of an adverse decision. Appeals will only be accepted if based on one or more of the grounds listed in subsection (c) of this section.

(c) Applicants/clients who allege that the Subrecipient has denied all or part of a service or benefit in a manner that is unjust, violates discrimination laws, or without reasonable basis in law or fact, may request a contested hearing under Texas Government Code, Chapter 2001.

(d) The hearing shall be conducted by the State Office of Administrative Hearings on behalf of the Department in the locality served by the Subrecipient. The Administrative Law Judge shall issue a Proposal for Decision for consideration and determination by the Board.

(e) [(i)] If client appeals to the Department, the Subrecipient [subrecipient] must retain the maximum allowable cost per unit until the Department renders a decision.

[(j)] The Department may review the recording of the hearing, the committee's decision, and any other relevant information necessary.]

[(k)] The Department appeals committee shall decide the case and forward their recommendation to the Division Director for final concurrence.]

[(l)] The Department will notify all parties in writing of its decision within thirty (30) days of receipt of the appeal.]

§5.506. Subrecipient Reporting Requirements.

(a) The Subrecipient [subrecipient] shall electronically submit to the Department a Monthly Expenditure Report of all expenditure of funds, request for advance or reimbursement, and a Monthly Performance Report no later than fifteen (15) days after the end of each month.

(b) The Subrecipient [subrecipient] shall electronically submit to the Department no later than forty-five (45) [sixty (60)] days after the end of the Subrecipient [subrecipient] contract term a final expenditure or reimbursement and final programmatic report utilizing the Monthly Expenditure Report and the Monthly Performance Report.

(c) The Subrecipient [subrecipient] shall submit to the Department no later than forty-five (45) [sixty (60)] days after the end of the contract term an inventory of all vehicles, tools, and equipment with a unit acquisition cost of \$5,000 or more and a useful life of more than one (1) year, if purchased in whole or in part with DOE and LI-HEAP-WAP funds.

(d) The Subrecipient [subrecipient] shall submit other reports, data, and information on the performance of the DOE and LIHEAP-WAP program activities as required by DOE pursuant to 10 CFR §440.25 or by the Department.

§5.507. Subrecipient Requirements for Establishing Priority for Eligible Households and Client Eligibility Criteria.

[(a)] Dwelling units that contain household members who receive Social Security Disability Insurance (SSDI) only are not automatically eligible.]

(a) [(b)] Subrecipients [The subrecipients] shall establish eligibility and priorities criteria to increase the energy efficiency of dwellings owned or occupied by low-income persons who are particularly vulnerable such as the Elderly [elderly], Persons with Disabilities [persons with disabilities], Families with Young Children [families with young children], Households with High Energy Burden, and Households with High Energy Consumption. [high residential energy users; and households with high energy burden. High residential energy users and households with high energy burden are defined as follows:]

[(1)] Households with energy burden which exceeds 11% of gross income are characterized by the Department as high energy bur-

den households. The Department calculates energy burden by dividing home energy costs by the household's gross income.}]

[(2) Households with energy expenditures which exceed \$1000 of energy expenditures per year are characterized by the Department as high energy consumers.}]

(b) [(e)] Subrecipients [The subrecipients] shall follow the Department rules and established state and federal guidelines for determining eligibility for Multifamily Dwelling Units [multifamily dwelling units] as referenced in §5.525 [§5.527] of this chapter [subchapter] (relating to Eligibility for Multifamily Dwelling Units [Energy Audit Procedures]).

(c) [(d)] To determine income eligibility for program services, Subrecipients [subrecipients] must base annualized eligibility determinations on Household [household] income from thirty (30) days prior to the date of application for assistance. Subrecipients [Each subrecipient] must document income from all sources for all Household [household] members for the entire thirty (30) day period prior to the date of application and multiply by twelve (12) to annualize income. Income documentation must be collected from all income sources for all Household [household] members eighteen (18) years and older for the entire thirty (30) day period.

(d) [(e)] In the case of migrant, seasonal, part-time, temporary, or self-employed workers a longer period than thirty (30) days may be used for annualizing income. However, the same method must be used for all similarly situated workers.

(e) [(f)] If proof of income is unobtainable [unavailable], the applicant must complete and sign a Declaration of Income Statement (DIS). In order to use the DIS form, Subrecipients [each subrecipient] shall develop and implement a written policy and procedure on the use of the DIS form. In developing the policy and procedure, Subrecipients [subrecipients] shall give consideration to limiting the use of the DIS form to cases where there are serious extenuating circumstances that justify the use of the form. Such circumstances might include crisis situations such as applicants that are affected by natural disaster which prevents the applicant from obtaining income documentation, applicants that flee a home due to physical abuse, applicants who are unable to locate income documentation of a recently deceased spouse, or whose work is migratory or seasonal in nature. The Department will review the written policy and its use during on-site monitoring visits.

(f) [(g)] Subrecipient shall determine applicant income in compliance with [The Department will provide definition of income lists to determine total household income. The lists contain income inclusions and exclusions and are located in] §5.19 of this chapter (relating to Client Income Guidelines).

(g) [(h)] Social Security numbers are not required for applicants.

§5.508. *Liability Insurance.*

Subrecipient weatherization work shall be covered by general liability insurance. The Department strongly recommends Pollution Occurrence Insurance to be part of or an addendum to Subrecipients' general liability insurance coverage. Subrecipients must ensure that each Subcontractor performing weatherization activities maintain adequate insurance coverage for all units to be weatherized.

[(a) All subrecipient weatherization work shall be covered by general liability. Pollution Occurrence Insurance shall be a part of, or an addendum to, the general liability insurance policy. The Department includes funds in the DOE-WAP subrecipient budgets for the subrecipients to purchase liability insurance and Pollution Occurrence Insurance as required for all units to be weatherized, including LIHEAP-WAP units.}]

[(b) Subrecipients shall review and maintain their existing policies at least as frequently as contracts are awarded, to ensure that they and their subcontractors have adequate insurance coverage for all units to be weatherized.}]

§5.521. *Client Education.*

Subrecipients [The subrecipients] shall provide client education to each WAP client on energy conservation practices. Subrecipients shall provide education to identify energy waste, manage Household [household] energy use, and strategies to promote energy savings. Subrecipients are encouraged to use oral, written, and visual educational materials. These activities are paid with the Department's training and technical assistance funds and the Subrecipients' [subrecipients'] program support funds.

§5.522. *Mold Work Practices.*

(a) The Department may provide mold work practices training methodology to all Subrecipients [subrecipients].

(b) The Department may provide mold work practices to new Subrecipient [subrecipient] hires on an on-going basis.

(c) Subrecipients [The subrecipients] shall be responsible for providing the training to their weatherization Subcontractors [subcontractors].

§5.523. *Presence of Mold-Like Substances [Mold Conditions].*

(a) If the Subrecipient's [subrecipient's] energy auditor discovers the presence of mold-like substances that [a mold condition which] the weatherization Subcontractor [subcontractor] cannot adequately address, then the unit shall be referred to the appropriate public agency for remedial action.

(b) The Subrecipient [subrecipient] shall provide the applicant written notification that their home cannot, at this time, be weatherized and why. They should also be informed of which agency they should contact to report the presence of mold-like substances [mold condition]. The applicant should be advised that when the [mold] issue is resolved they may reapply for weatherization. Should the applicant reapply for weatherization, the Subrecipient must obtain written documentation of resolution of the issue from the applicant prior to proceeding with any weatherization work.

(c) If the energy auditor determines that the mold-like substance [mold] is treatable and covers less than the 25 contiguous square feet limit allowed to be addressed by the Department of State Health Services' guidelines, the Subrecipient [subrecipient] shall notify the applicant of the existence of the mold-like substance [mold] and potential health hazards, the proposed action to eliminate the mold-like substance [mold], and that no guarantee is offered that the mold-like substance [mold] will be eliminated and that the mold-like substance [mold] may return. The auditor must obtain written approval from the applicant to proceed with the weatherization work.

§5.524. *Lead Safe Work Practices.*

Subrecipients are required to [will require and] document that their weatherization staff as well as Subcontractors follow the Environmental Protection Agency's Renovation, Repair and Painting Program (RRP) rule and [subcontractors] have received Lead Safe Weatherization (LSW) training, an LSW Manual, and an LSW Jobsite Handbook prior to commencement of weatherization work. Subrecipients must obtain a signed Worker Verification of LSW Training form from the Subcontractor [subcontractor] indicating that the Subcontractor [subcontractor] received the LSW training, manual, and jobsite handbook. Subcontractors must follow LSW Work Practices as outlined by the U.S. Department of Energy.

§5.525. *Eligibility for Multifamily Dwelling Units.*

(a) The eligibility of dwelling units for WAP services can be found in 10 CFR §440.22.

(b) A multifamily building is defined by DOE as a group of dwellings under the same roof.

(c) In order to weatherize large multifamily buildings containing twenty-five or more dwelling units or those with shared central heating (i.e. boilers) and/or shared cooling plants (i.e. cooling towers that use water as the coolant) regardless of the number of dwelling units, Subrecipients [subrecipients] shall submit in writing a request for approval from the Department. When necessary, the Department will seek approval from DOE. Approvals from DOE must be received prior to the installation of any weatherization measures in this type of structure.

(d) In order to weatherize shelters, Subrecipients [subrecipients] shall submit a written request for approval from the Department. Approvals from the Department must be received prior to the installation of any weatherization measures.

(e) If roof replacement is to be considered as part of repair cost under the weatherization process, the expenses must be shared equally by all eligible units weatherized under the same roof. If multiple storied buildings are weatherized, eligible ground floor units must be allocated a portion of the roof cost as well as the eligible top floor units. All weatherization measures installed in multifamily units must meet the standards set in 10 CFR §440.18(c)(9) and (15) and Appendix A--Standards for Weatherization Materials, and meet a savings-to-investment ratio of one or greater on the Energy Audit. DOE specifically addresses the eligibility of multifamily units in 10 CFR §440.22(a) - (d).

(f) WAP Subrecipients [subrecipients] shall establish a multifamily master file for each multifamily project in addition to the individual unit requirements found in the record keeping requirement section of the contract. Subrecipients shall maintain a multifamily master file for each complex weatherized. The multifamily master file must include, at a minimum, the [following] forms listed in paragraphs (1) - (6) of this subsection: (Forms available on the Departments website).

- (1) Multifamily Pre-Project Checklist Form;
- (2) Multifamily Post-Project Checklist Form;
- (3) Permission to Perform an Assessment for Multifamily Project Form;
- (4) Landlord Agreement Form;
- (5) Landlord Financial Participation Form; and
- (6) Significant Data Required in all Multifamily Projects.

§5.531. *Training and Technical Assistance.*

Upon the hiring of a new Weatherization Coordinator, the Subrecipient [subrecipient] is required to contact the Department with written notification within thirty (30) days of the hiring and request training and technical assistance.

§5.532. *Training Funds for Conferences.*

The Department may provide [provides] financial assistance to Subrecipients [subrecipients] for training and technical activities for state [State] sponsored, DOE sponsored, and other relevant workshops and conferences. Subrecipients may use WAP training funds to attend conferences provided the conference agenda includes topics directly related to administering WAP. Costs to attend the conference must be prorated by program for the appropriate portion. Only staff actually working on the WAP program may charge any of their travel costs to the program.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

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Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 475-3916



10 TAC §§5.504, 5.526, 5.527, 5.529, 5.530

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 5, Subchapter E, §§5.504, 5.526, 5.527, 5.529, and 5.530, concerning Weatherization Assistance Program General. The purpose of the proposed repeal is to remove rules that are duplicated or redundant or are concurrently proposed elsewhere in the Community Affairs Division rules.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repeal will be increased clarity and simplification of the administration of the Department's Community Affairs programs. There will not be any economic cost to any individuals required to comply with the repeal.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 8, 2013 to April 8, 2013, to receive input on the proposed repeal. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email to the following address: cadrulecomments@tdhca.state.tx.us; or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. APRIL 8, 2013.

STATUTORY AUTHORITY. The repeal is proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules; and Texas Government Code, Chapter 2306, Subchapter E, which authorizes the Department to administer its Community Affairs programs.

The proposed repeal affects no other code, article, or statute.

§5.504. *Subrecipient Eligibility.*

§5.526. *Energy Audit.*
§5.527. *Energy Audit Procedures.*
§5.529. *Whole House Assessment.*
§5.530. *Blower Door Standards.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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SUBCHAPTER F. WEATHERIZATION ASSISTANCE PROGRAM DEPARTMENT OF ENERGY

10 TAC §§5.602, 5.604 - 5.606

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 5, Subchapter F, §§5.602 and 5.604 - 5.606, concerning Weatherization Assistance Program Department of Energy. The purpose of the proposed amendments is to remove reference to carryover funds, clarify rules related to health and safety measures, and to make clerical corrections.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendments are in effect, enforcing or administering the amended sections does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendments will be increased clarity and simplification of the administration of the Department's Community Affairs programs. There will not be any economic cost to any individuals required to comply with the amended sections.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 8, 2013 to April 8, 2013, to receive input on the proposed amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email to the following address: cadrulecomments@tdhca.state.tx.us; or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. APRIL 8, 2013.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules; and Texas Government Code, Chapter 2306, Subchapter E, which authorizes the Department to administer its Community Affairs programs.

The proposed amendments affect no other code, article, or statute.

§5.602. *WAP Policy Advisory Council (WAP PAC).*

(a) In accordance with Texas Government Code, §2110.005, the Department shall establish a state [State] policy advisory council, in accordance with 10 CFR §440.17 and Texas Government Code, Chapter 2110, prior to the expenditure of any grant funds.

(b) The Weatherization Assistance Program Policy Advisory Council (WAP PAC) [policy advisory council] shall meet at least once a year to review the program plan and provide advice to the Department and meet as needed throughout the year to provide advice when it is requested.

(1) The WAP PAC may also meet as necessary in person, by telephone, or via electronic means to provide the Governing Board or Department guidance and advice with respect to the development and implementation of the weatherization assistance program and its activities; and

(2) The WAP PAC will cause minutes of any meetings or telephone conferences to be taken and forwarded to the Department or Governing Board.

(c) All meetings shall be held in accordance with Texas Government Code, Chapter 551.

§5.604. *Categorical Eligibility Criteria.*

A dwelling unit shall be eligible for weatherization assistance if it is occupied by a family unit which contains a current household member who has received Temporary Assistance for Needy Families (TANF) or Supplemental Security Income (SSI) [TANF or SSI] at any time during the twelve month period preceding the determination of eligibility. The eligibility of dwelling units for WAP services can be found in 10 CFR §440.22.

§5.605. *Training and Technical Assistance [Carryover Funds].*

[(a)] Training and technical assistance funds, allocation figure as provided by DOE, shall not be used to purchase vehicles or equipment for local agencies to perform weatherization services.

[(b) Should unexpended training and technical assistance funds remain at the end of the program year, the Department may require these funds to be used to weatherize homes during the following year.]

[(c) If the Department determines these funds are needed for training and technical assistance, DOE can waive this provision if necessary. If this is the case, the Department will provide justification to DOE of the necessity to carryover these funds into the new program year and that they be included as a part of the new training and technical assistance budget.]

§5.606. *Electric Base Load Measures.*

DOE has approved the inclusion of selected Electric Base Load (EBL) measures as part of the weatherization of eligible residential units. EBL measures must be determined cost effective with an Savings to Investment Ratio (SIR) [SIR] of one or greater by [either] audit analysis [or separate DOE approved analytical tools]. Refrigerators must be metered for a minimum of two (2) hours.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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10 TAC §§5.610 - 5.613

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 5, Subchapter F, §§5.610 - 5.613, concerning Weatherization Assistance Program Department of Energy. The purpose of the proposed new sections is to add rules related to health and safety measures that are specific to the Department of Energy program.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will be increased clarity and simplification of the administration of the Department's Community Affairs programs. There will not be any economic cost to any individuals required to comply with the new sections.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 8, 2013 to April 8, 2013, to receive input on the proposed new sections. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email to the following address: cadrulecomments@tdhca.state.tx.us; or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. APRIL 8, 2013.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules; and Texas Government Code, Chapter 2306, Subchapter E, which authorizes the Department to administer its Community Affairs programs.

The proposed new sections affect no other code, article, or statute.

§5.610. Energy Audit.

Subrecipients are required to complete a State of Texas approved Energy Audit or utilize the DOE Priority List to determine allowable weatherization measures prior to commencing weatherization work.

§5.611. Energy Audit Procedures.

(a) Savings-to-Investment Ratio (SIR) for the Energy Audit procedures will determine the installation of allowable weatherization measures. The weatherization measures must result in energy cost savings over the lifetime of the measure(s), discounted to present value, that equal or exceed the cost of materials, and installation. An Energy Audit may consist of Incidental Repairs, Energy-Saving Measures (starting with Duct Sealing and Infiltration Reduction), and Health and Safety Measures. All Energy-Saving Measures must rank with an SIR of 1 or greater. The total Cumulative SIR, prior to Health and Safety

measures, must be a 1 or greater in order to weatherize the dwelling unit.

(b) The Energy Audit has not been approved for multifamily buildings containing 25 or more units. Subrecipients that propose weatherizing a building containing 25 or more units must contact the Department for assistance prior to beginning any weatherization activity.

(c) Energy Auditors must use the established R-values for existing measures provided in the International Energy Conservation Code (IECC) when entering data into the Energy Audit. Subrecipients must follow minimum requirements set in the State of Texas adopted International Residential Code (IRC) or jurisdictions authorized by state law to adopt later editions.

(d) Subrecipients utilizing the Energy Audit must enter all materials and labor measures proposed to be installed.

§5.612. Whole House Assessment.

(a) Subrecipients must conduct a whole house assessment on all eligible units. Whole house assessments must be used to determine whether the Priority List or an Energy Audit is most appropriate for the unit. Whole house assessments must include but are not limited to the items described in paragraphs (1) - (15) of this subsection:

(1) Wall--Condition, type, orientation, and existing R-values;

(2) Windows--Condition, type material, glazing type, leakiness, and solar screens;

(3) Doors--Condition, type;

(4) Attic--Type, condition, existing R-values, and ventilation;

(5) Foundation--Condition, existing R-values, and floor height above ground level;

(6) Heating System--For all systems: unit type, fuel source (primary or secondary), thermostat, and output; for combustion systems only: vented or unvented efficiency, CO-levels, complete fuel gas analysis, gas leaks, and combustion venting;

(7) Cooling System--Unit type, condition, area cooled, size in BTU rating, Seasonal Energy Efficiency Rating (SEER) or Energy Efficiency Rating (EER), manufacture date, and thermostat;

(8) Duct System--Condition, existing insulation level, evaluation of registers, return air register size, and condition of plenum joints;

(9) Water Heater--For all water heaters: condition, fuel type, energy factor, recovery efficiency, input and output ratings, size, existing insulation levels, existing pipe insulation; for combustion water heaters only: carbon monoxide levels, draft test, complete fuel gas analysis;

(10) Refrigerator--Condition, manufacturer, manufacture date and make, model, and consumption reading (minutes and meter reading); client refusal must be documented;

(11) Lighting System--Quantity, watts, and estimated hours used per day;

(12) Water Savers--Number of showerheads, estimated gallons per minute and estimated minutes used per day;

(13) Health and Safety--For all units: smoke detectors, wiring, minimum air exchange, moisture problems, lead paint present, asbestos siding present, condition of chimney, plumbing problems, mold; for units with combustion appliances: unvented space heaters,

carbon monoxide levels on all combustion appliances, carbon monoxide detectors;

(14) Air Infiltration--To be determined from Blower Door testing; areas requiring air sealing will be noted;

(15) Repairs--Measures needed to preserve or protect installed weatherization measures may include lumber, shingles, flashing, siding, masonry supplies, minor window repair, gutters, downspouts, paint, stains, sealants, and underpinning.

(b) If using the Energy Audit, all allowable weatherization measures needed must be entered. Measures will be performed in order of highest SIR to lowest depending on funds available. If using the Priority List, included weatherization measures must be addressed in the order they appear on the list, or an explanation for excluding a measure must be provided.

§5.613. Blower Door Standards.

Subrecipients are required to use the blower door data form adopted by the Department and available on the Department's website (www.tdhca.state.tx.us).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Timothy K. Irvine

Executive Director

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SUBCHAPTER G. WEATHERIZATION ASSISTANCE PROGRAM LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

10 TAC §5.701, §5.703

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 5, Subchapter G, §5.701 and §5.703, concerning Weatherization Assistance Program Low-Income Home Energy Assistance Program. The purpose of the proposed amendments is to update the allowable expenditure per dwelling unit and outreach activities.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendments are in effect, enforcing or administering the amended sections does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendments will be increased clarity and simplification of the administration of the Department's Community Affairs programs. There will not be any economic cost to any individuals required to comply with the amended sections.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 8, 2013 to April 8, 2013, to receive input on the proposed amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email to the following address: cadrulecomments@tdhca.state.tx.us; or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. APRIL 8, 2013.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules; and Texas Government Code, Chapter 2306, Subchapter E, which authorizes the Department to administer its Community Affairs programs.

The proposed amendments affect no other code, article, or statute.

§5.701. Allowable Expenditure per Dwelling Unit.

Expenditures of financial assistance provided under LIHEAP-WAP funding for the weatherization services for labor, weatherization materials, and related matters shall not exceed the allowable figure as set forth in the annual LIHEAP State Plan. The current allowable amount is set at \$5,000 [~~\$4,000~~] per dwelling unit.

§5.703. Outreach and Accessibility.

~~[(a)]~~ The Department may continue to develop interagency collaborations with other low-income program offices and energy providers to perform outreach to targeted groups.]

(a) ~~[(b)]~~ Subrecipients shall conduct outreach activities, which may include but are not limited to:[:]

(1) providing information through home visits, site visits, group meetings, or by telephone for disabled low-income persons;

(2) distributing posters/flyers and other informational materials at local and county social service agencies, offices of aging, social security offices, etc.;

(3) providing information on the program and eligibility criteria in articles in local newspapers or broadcast media announcements;

(4) coordinating with other low-income services to provide LIHEAP information in conjunction with other programs;

(5) providing information on one-to-one basis for applicants in need of translation or interpretation assistance;

(6) providing LIHEAP applications, forms, and energy education materials in English and/or Spanish (or other appropriate language);

(7) working with energy vendors in identifying potential applicants;

(8) assisting applicants to gather needed documentation;
and

(9) mailing information and applications.

(b) ~~[(e)]~~ Subrecipients and their field offices shall accept applications at sites that are geographically accessible to all households requesting assistance.

~~[(d)]~~ Other outreach activities may include:]

{(1) providing information through home visits, site visits, group meetings, or by telephone for disabled low-income persons;}

{(2) distributing posters/flyers and other informational materials at local and county social service agencies, offices of aging, social security offices, etc.;}

{(3) providing information on the program and eligibility criteria in articles in local newspapers or broadcast media announcements;}

{(4) coordinating with other low-income services to provide LIHEAP information in conjunction with other programs;}

{(5) providing information on one-to-one basis for applicants in need of translation or interpretation assistance;}

{(6) providing LIHEAP applications, forms, and energy education materials in English and/or Spanish (or other appropriate language);}

{(7) working with energy vendors in identifying potential applicants;}

{(8) assisting applicants to gather needed documentation; and}

{(9) mailing information and applications.}

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Timothy K. Irvine

Executive Director

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For further information, please call: (512) 475-3916



10 TAC §§5.702, 5.704, 5.705

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 5, Subchapter G, §§5.702, 5.704, and 5.705, concerning Weatherization Assistance Program Low-Income Home Energy Assistance Program. The purpose of the repeal is to remove weatherization measures that are not specific to Low-Income Home Energy Assistance Program.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repeal will be increased clarity and simplification of the administration of the

Department's Community Affairs programs. There will not be any economic cost to any individuals required to comply with the repeal.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 8, 2013 to April 8, 2013, to receive input on the repeal. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email to the following address: cadrulecomments@tdhca.state.tx.us; or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. APRIL 8, 2013.

STATUTORY AUTHORITY. The repeal is proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules; and Texas Government Code, Chapter 2306, Subchapter E, which authorizes the Department to administer its Community Affairs programs.

The proposed repeal affects no other code, article, or statute.

§5.702. *Electric Base Load Measures.*

§5.704. *Energy Repairs.*

§5.705. *Other Measures.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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For further information, please call: (512) 475-3916



10 TAC §§5.702, 5.704, 5.705

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 5, Subchapter G, §§5.702, 5.704, and 5.705, concerning Weatherization Assistance Program Low-Income Home Energy Assistance Program. The purpose of the proposed new sections is to add allowable weatherization activities and leveraging requirements with Department of Energy funds.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will be increased clarity and simplification of the administration of the Department's Community Affairs programs. There will not be any economic cost to any individuals required to comply with the new sections.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 8, 2013 to April 8, 2013, to receive input on the new sections. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email to the following address: cadrulecomments@tdhca.state.tx.us; or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. APRIL 8, 2013.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules; and Texas Government Code, Chapter 2306, Subchapter E, which authorizes the Department to administer its Community Affairs programs.

The proposed new sections affect no other code, article, or statute.

§5.702. Allowable Activities.

Subrecipients are allowed to perform weatherization measures as detailed in the priority list exhibit to the annual weatherization contract. Measures must be performed in the order detailed in the exhibit. Subrecipient shall include in the client file detailed documentation to explain omitted measures.

§5.704. Leveraging.

If Subrecipient leverages with any Department of Energy weatherization funds, all DOE rules and requirements will apply.

§5.705. Priority Assessment.

Subrecipients must conduct an assessment of units to include all required Health and Safety and energy efficiency measures included on the LIHEAP priority list.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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CHAPTER 9. TEXAS NEIGHBORHOOD STABILIZATION PROGRAM

10 TAC §§9.1 - 9.8

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 9, §§9.1 - 9.8, concerning Texas Neighborhood Stabilization Program. The

purpose of the proposed repeal is to eliminate redundancy as Neighborhood Stabilization contracts are subject to other provisions of 10 TAC Chapter 10, Uniform Multifamily Rules; Chapter 20, Single Family Programs Umbrella Rule; and Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repeal will be greater clarity and elimination of redundancy in the Department's administrative rules. There will not be any economic cost to any individuals required to comply with the repeal.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses as a result of this repeal.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 8, 2013, to April 8, 2013, to receive input on the repeal. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Marni Holloway, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email at marni.holloway@tdhca.state.tx.us; or by fax to (512) 475-1672. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. ON APRIL 8, 2013.

STATUTORY AUTHORITY. The repeal is proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The proposed repeal affects no other code, article, or statute.

§9.1. Purpose.

§9.2. Definitions.

§9.3. General Provisions.

§9.4. Amendments.

§9.5. Sanctions/Deobligation.

§9.6. Reassignment of Funds.

§9.7. Compliance and Monitoring.

§9.8. Definitions.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Timothy K. Irvine

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CHAPTER 23. SINGLE FAMILY HOME PROGRAM

SUBCHAPTER B. AVAILABILITY OF FUNDS, APPLICATION REQUIREMENTS, REVIEW AND AWARD PROCEDURES, GENERAL ADMINISTRATIVE REQUIREMENTS, AND RESALE AND RECAPTURE OF FUNDS

10 TAC §23.26

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 23, Subchapter B, §23.26, concerning Reservation System Participant (RSP) Agreements. The purpose of the proposed amendment is to add language to the income targeting requirements to define extremely low income families as families that are either at or below 30% area median family income (AMFI) for the county in which they reside or have an income that is lower than the statewide extremely low-income limit as defined by the U.S. Department of Housing and Urban Development (HUD).

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendments are in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendment will be better clarity and direction for HOME funded projects with regard to determination of area median family income approved in the Department's HOME Single Family Division. There will not be any economic cost to any individuals required to comply with the amendment.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 8, 2013 to April 8, 2013, to receive input on the proposed amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Chad Landry, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email at chad.landry@tdhca.state.tx.us, or by fax to (512) 475-0220. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. APRIL 8, 2013.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The proposed amendments affect no other code, article, or statute.

§23.26. Reservation System Participant (RSP) Agreements.

(a) Terms of agreement. RSP agreements will have a twenty-four (24) month term for all Activities. Execution of an RSP agreement does not guarantee the availability of funds under a reservation system.

(b) Limits on Number of Reservations. The number of Homeowner Rehabilitation, Homebuyer Assistance or Single Family Development reservations for an RSP is limited to five (5) per county within the RSP's Service Area at any given time. The number of Tenant-Based Rental Assistance reservations for an RSP is limited to thirty (30) at any given time.

(c) Extremely Low-Income Households. Except for Households served with disaster relief, homebuyer assistance or single fam-

ily development funds, each RSP will be required to serve at least one extremely low-income Household [at or below 30 percent of area median family income (AMFI)] out of every four Households submitted and approved for assistance. Extremely low-income is defined as families that are either at or below 30% area median family income (AMFI) for the county in which they reside or have an income that is lower than the statewide extremely low-income limit as defined by the U.S. Department of Housing and Urban Development (HUD).

(d) Match. The requirements of this subsection are waived until December 31, 2013. Any Projects submitted to the Department under a Reservation Agreement prior to December 31, 2013, will not be required to provide Match as outlined in this section, except for Match that is proposed to meet Application threshold criteria. An RSP must meet the tiered Match requirements per Activity for at least every fourth Household submitted and approved for assistance. For example, if Match is not provided for the first three Households assisted by an RSP, the Match provided to the fourth Household must meet the Match requirement for all four Households.

(e) Completion of Construction. For Projects involving construction, an RSP must complete construction and submit all requests for disbursement within nine (9) months from the Commitment of Funds for the Project.

(f) Extensions. The Executive Director or his/her designee may approve one three (3) month time extension to the Commitment of Funds to allow for the completion of construction and submission of requests for disbursement.

(g) An RSP must remain in good standing with the Department, the state of Texas, and HUD. If an RSP is not in good standing, participation in the reservation system will be suspended and may result in termination of the RSP agreement.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300876

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 475-3916



SUBCHAPTER C. HOMEOWNER REHABILITATION ASSISTANCE PROGRAM

10 TAC §23.31, §23.32

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 23, Subchapter C, §23.31 and §23.32, concerning Homeowner Rehabilitation Assistance Program. The purpose of the proposed amendments is to clarify instances where the Department will approve new construction activities and to clarify administrative requirements related to Grant Agreements.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendments are in effect, enforcing or administering the amendments does

not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendments will be better clarity and direction for homeowner rehabilitation assistance projects approved in the Department's HOME Single Family Program. There will not be any economic cost to any individuals required to comply with the amendments.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 8, 2013 to April 8, 2013, to receive input on the amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Chad Landry, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by fax to (512) 475-0220. **ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. APRIL 8, 2013.**

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The proposed amendments affect no other code, article, or statute.

§23.31. Homeowner Rehabilitation Assistance (HRA) Program Requirements.

(a) Eligible Projects are limited to:

(1) the Rehabilitation or Reconstruction of existing owner-occupied housing on the same site. The Rehabilitation of a Manufactured Housing Unit (MHU) is not an eligible Project;

(2) the New Construction of site-built housing on the same site to replace an existing owner-occupied MHU;

(3) the replacement of existing owner-occupied housing with an MHU or New Construction of site-built housing on another site contingent upon written approval of the Department;

(4) if housing unit is uninhabitable as a result of disaster or a condemnation order from the unit of [by] local government, or presents an imminent threat to the life, health, or safety of occupants as determined by the local government with jurisdiction over the property, the Household is eligible for the New Construction of site-built housing or an MHU under this section provided the assisted Household documents that the housing unit was previously their Principal Residence through evidence of a homestead exemption from the local taxing jurisdiction and Household certification; or

(5) if allowable under the Notice of Funding Availability (NOFA), the refinance of an existing mortgage meeting the federal requirements at 24 CFR §92.206(b) and any additional requirements in the NOFA.

(b) If a housing unit has an existing mortgage loan and Department funds are provided in the form of a loan, the Department will require a first lien if the loan has an outstanding balance that is less than the investment of HOME funds and any of the statements described in paragraphs (1) - (3) of this subsection are true:

(1) a federal affordability period is required; or

(2) any existing mortgage has been in place for less than three (3) years from the date the Household applies for assistance; or

(3) the HOME loan is structured as a repayable loan.

(c) The Household must be current on any existing mortgage loans or home equity loans. If the Department's assistance is provided in the form of a loan, the property cannot have any existing home equity loan liens.

(d) Direct Project Costs, exclusive of Match funds, and are limited to:

(1) Reconstruction and New Construction of site-built housing: the lesser of \$78 per square foot or \$85,000, or for Households of six or more Persons the lesser of \$78 per square foot or \$90,000;

(2) replacement with an MHU: \$65,000;

(3) rehabilitation that is not Reconstruction: \$40,000; and

(4) refinancing of existing mortgages: in addition to the costs limited under paragraphs (1) - (3) of this subsection, the cost to refinance an existing mortgage is limited to \$35,000. To qualify, a Household's current total housing payment must be greater than 30 percent of their monthly gross income or their total monthly recurring debt payments must be greater than 45 percent of their gross monthly income.

(e) In addition to the Direct Project Costs allowable under subsection (d) of this section, up to \$5,000 will be allowed in Direct Project Costs for additional sitework related to accessibility features if the house will be located more than 50 feet from the nearest paved roadway or if the house is being elevated above the floodplain.

(f) Project soft costs are limited to:

(1) Reconstruction or New Construction: no more than \$9,000 per housing unit;

(2) replacement with an MHU: no more than \$3,500 per housing unit;

(3) rehabilitation that is not Reconstruction: \$5,000 per housing unit. This limit may be exceeded for lead-based paint remediation and only upon prior approval of the Division Director. The costs of testing and assessments for lead-based paint are not eligible Project soft costs for housing units that are Reconstructed or if the existing housing unit was built after December 31, 1977; and

(4) third-party Project soft costs related to loan closing requirements, such as appraisals, title reports or insurance, tax certificates, recording fees, and surveys are not subject to a maximum per Project.

(g) Funds for Administrative costs are limited to no more than 4 percent of the Direct Project Costs, exclusive of Match funds.

(h) In the instances described in paragraphs (1) - (4) of this subsection, the assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Project Costs excluding Match funds. If the Household is at or below 60 percent area median family income (AMFI), the loan will be at zero percent interest and include deferral of payment and annual pro-rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254. If the Household is above 60 percent AMFI but at or below 80 percent AMFI, the assistance to the Household will be a zero percent interest repayable with a 30-year term.

(1) An MHU being replaced with newly constructed housing (site-built) on the same site;

(2) Any housing unit being replaced on another site;

(3) Any housing unit that is being relocated out of the floodplain or replaced due to uninhabitability as allowed under subsection (a)(4) of this section; and

(4) Any Project that requires a federal affordability period.

(i) For any Project involving refinancing described in subsection (d)(4) of this section, the HOME funds used for refinancing shall be structured as a fully amortizing, repayable loan at zero percent interest. The loan term shall be calculated by setting the total estimated housing payment (including principal, interest, property taxes, insurance, and any other homebuyer assistance), equal to 20 percent of the Household's gross monthly income. The term shall not exceed thirty (30) years. Total debt service (back-end ratio) may not exceed 45 percent. Any Direct Project Costs, exclusive of refinancing costs and Match funds, shall be structured as a deferred, forgivable loan with a 15-year term.

(j) In all other instances not described in subsections (h) and (i) of this section, the assistance to an eligible Household may be in the form of a loan or grant agreement in the amount of the Direct Project Costs exclusive of Match funds with an affordability term based on the Household's AMFI as reflected in Figure: 10 TAC §23.31(j). Figure: 10 TAC §23.31(j)

(k) To ensure affordability, the Department will impose resale and recapture provisions established in this chapter.

(l) For Reconstruction and New Construction, site-built housing units must meet or exceed the 2000 International Residential Code and all applicable local codes and standards. In addition, housing that is Rehabilitated under this chapter must meet the Texas Minimum Construction Standards (TMCS) and all other applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with this chapter.

§23.32. Homeowner Rehabilitation Assistance (HRA) Administrative Requirements.

(a) Commitment or Reservation of Funds. The Contract Administrator (CA) or Reservation System Participant (RSP) must submit the true and complete information, certified as such, with a request for the Commitment or Reservation of Funds as described in paragraphs (1) - (15) of this subsection:

(1) head of Household name and address of housing unit for which assistance is being requested;

(2) a budget that includes the amount of Project funds specifying the acquisition costs, construction costs, soft costs and administrative costs requested, a maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Direct Project Cost and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) verification of environmental clearance;

(4) a copy of the Household's intake application on a form prescribed by the Department;

(5) certification of the income eligibility of the Household signed by the CA or RSP and all Household members age 18 or over, and including the date of the income eligibility determination. In instances where the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;

(6) when assistance is provided in the form of a loan, provide written consent from all Persons who have a valid lien or ownership interest in the Property for the rehabilitation or reconstruction Projects;

(7) in the instance of relocation and in accordance with §23.31(a)(3) of this chapter (relating to Homeowner Rehabilitation Assistance (HRA) Program Requirements), the Household must document Homeownership of the existing unit to be replaced and must establish Homeownership of the lot on which the replacement housing unit will be constructed. The Household must agree to the demolition of the existing housing unit. HOME Project funds cannot be used for the demolition of the existing unit and any funding used for the demolition is not eligible Match; however, solely for a Project under this paragraph, the CA or RSP Match obligation may be reduced by the cost of such demolition without any Contract amendment;

(8) identification of any Lead-Based Paint (LBP);

(9) for housing units located within the 100-year floodplain, a quote for the cost of flood insurance and certification from the Household that they understand the flood insurance requirements;

(10) consent to demolish from any existing mortgage lien holders and consent to subordinate to the Department's Loan, if applicable;

(11) if applicable, documentation to address or resolve any potential conflict of interest, identity of interest, duplication of benefit, or floodplain mitigation;

(12) a title commitment or policy or a down date endorsement to an existing title policy, and the actual documents, or legible copies thereof, establishing the Household's ownership, such as a warranty deed or ninety-nine (99) year leasehold. For assistance provided in the form of a grant agreement, a title report may be submitted in lieu of a title commitment or policy. In instances of an MHU, a Statement of Ownership and Location (SOL) must be submitted. Together, these documents must evidence the definition of Homeownership is met;

(13) tax certificate that evidences a current paid status, and in the case of delinquency, evidence of an approved payment plan with the taxing authority and evidence that the payment plan is current;

(14) appraisal or other valuation method approved by the Department which establishes the post rehabilitation or reconstruction value of improvements for Projects involving construction; and

(15) any other documentation necessary to evidence that the Project meets the program requirements.

(b) Loan closing or grant agreement. The CA or RSP must comply with or submit the documents described in paragraphs (1) - (3) of this subsection, with a request for the preparation of loan closing or grant agreement as applicable, with the request for the Commitment or Reservation of Funds:

(1) a title commitment or title policy that expires prior to execution of closing must be updated at closing and must not have any adverse changes in order to close. An updated title report is not required for grant agreements;

(2) in the instances of replacement with an MHU, information necessary to draft loan documents or grant agreements to issue SOL; and

(3) life event documentation, as applicable, and all information necessary to prepare any applicable affidavits such as marital status and heirship.

(c) Disbursement of funds. The CA or RSP must comply with all of the requirements described in paragraphs (1) - (11) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the CA's or RSP's compliance with requirements described in paragraphs (1) - (11) of this subsection, may be required with a request for disbursement:

(1) for construction costs associated with a loan, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least thirty (30) days after the date of construction completion;

(2) for construction costs associated with a grant agreement, an interim lien waiver or final lien waiver. For release of retainage the final lien waiver must be dated at least thirty (30) days after the date of construction completion;

(3) if applicable, up to 50 percent of Project funds for a Project may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(4) property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and CA or RSP;

(5) certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(6) the executed grant agreement or original, executed, legally enforceable loan documents and statement of location, if applicable, for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official;

(7) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA or RSP to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA or RSP as may be necessary or advisable for compliance with all Program Rules;

(8) the request for funds for Administrative costs must be proportionate to the amount of Direct Project Costs requested or already disbursed;

(9) include the withholding of 10 percent of hard construction costs for retainage. Retainage will be held until at least thirty (30) days after completion of construction;

(10) for final disbursement requests, submission of documentation required for Project completion reports and evidence that the demolition or, if an MHU, salvage and removal of all dilapidated housing units on the lot occurred for Newly Constructed or Rehabilitated housing unit, certification or other evidence acceptable to Department that the replacement house, whether site-built or MHU, was constructed or placed on and within the same lot for which ownership was established and on and within the same lot secured by the loan or grant agreement, if applicable, and evidence of floodplain mitigation; and

(11) the final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300877

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 475-3916



SUBCHAPTER D. HOMEBUYER ASSISTANCE PROGRAM

10 TAC §23.41

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments 10 TAC Chapter 23, Subchapter D, §23.41, concerning Homebuyer Assistance (HBA) Program Requirements. The purpose of the proposed amendment is to address instances where the Department will approve the payment of closing costs in addition to acquisition costs toward the purchase of a new home.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendments are in effect, enforcing or administering the amendments does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendments will be better direction and flexibility for homebuyer assistance projects approved in the Department's HOME Single Family Program. There will not be any economic cost to any individuals required to comply with the amendments.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held March 8, 2013 to April 8, 2013, to receive input on the proposed amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Chad Landry, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email at chad.landry@tdhca.state.tx.us, or by fax to (512) 475-0220. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. APRIL 8, 2013.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The proposed amendments affect no other code, article, or statute.

§23.41. *Homebuyer Assistance (HBA) Program Requirements.*

(a) Eligible activities are limited to the acquisition or acquisition and Rehabilitation for accessibility modifications of single family housing units.

(b) The Household must complete a homebuyer counseling program/class.

(c) First lien purchase loans must comply with the requirements described in paragraphs (1) - (7) of this subsection:

(1) No adjustable rate mortgage loans or temporary interest rate buy-down loans are allowed;

(2) No first lien mortgage loans with a total loan to value equal to or greater than 100 percent are allowed;

(3) No Subprime Mortgage Loans are allowed;

(4) For Nonconforming Mortgage Loans, the debt to income ratio (back-end ratio) may not exceed 45 percent;

(5) Fees charged by third party mortgage lenders are limited to the greater of 2 percent of the mortgage loan amount or \$3,500, including but not limited to origination, application, and/or underwriting fees. Fees associated with the origination of Single Family Mortgage Revenue Bond and Mortgage Credit Certificate programs will not be included in the limit. Fees paid to parties other than the first lien lender and reflected on the HUD-1 will not be included in the limit. Fees collected by the first lien lender at closing to be paid to other parties by the first lien lender that are supported by an invoice and reflected on the HUD-1 will not be included in the limit;

(6) No identity of interest relationship between the lender and the Household is allowed; and

(7) If an identity of interest exists between the Household and the seller, the Department may require additional documentation that evidences that the sales price is equal to or less than the appraised value of the property as documented by a Third-Party appraisal ordered by the first lien lender. If an identity of interest exists between the builder and Contract Administrator (CA) or Reservation System Participant (RSP), the CA or RSP must provide documentation that evidences that the sales price does not provide for a profit of more than 15 percent of the total hard construction costs and does not exceed the current appraised value as documented by a Third-Party appraisal ordered by the first lien lender.

(d) Direct Project Costs, exclusive of Match funds, are limited to:

(1) acquisition and closing costs: the lesser of \$20,000 or the amount necessary as determined by an affordability analysis that evidences the total estimated housing payment (including principal, interest, property taxes, insurance, and any other homebuyer assistance) is no less than 20 percent of the Household's gross monthly income based on a thirty (30) year amortization schedule. If the estimated housing payment will be less than 20 percent, the Department shall reduce the amount of downpayment assistance to the homebuyer such that the total estimated housing payment is no less than 20 percent of the homebuyer's gross income; or [and]

(2) closing costs and downpayment: the lesser of \$2,500 or the total estimated settlement charges shown on the good faith estimate that are paid by the buyer at closing which are not paid by the buyer's contribution. Households assisted under this paragraph who, at the time of application, have assets which may be liquidated without a

federal income tax penalty and which exceed three months of estimated principal, interest, property tax, and property insurance payments for the unit to be purchased as shown in the truth-in-lending statement must contribute the excess funds to the total estimated settlement charges as shown on the good faith estimate; and

(3) ~~[(2)]~~ rehabilitation for accessibility modifications: \$20,000; and

(4) ~~[(3)]~~ the amount necessary to acquire the home and make accessibility modifications ~~[(funds may not be disbursed to the Household at closing)]~~.

(5) No funds shall be disbursed to the assisted Household at closing. The HOME assistance shall be reduced in the amount necessary to prevent the Household's direct receipt of funds if the HUD-1 settlement statement shows funds to be provided to the buyer at closing.

(6) Total assistance to the Household must be in an amount of no less than \$1,000. Households who are not eligible for at least \$1,000 in total homebuyer assistance are ineligible for assistance under this subchapter.

(e) Project soft costs are limited to:

(1) acquisition and closing costs: no more than \$1,500 per housing unit; and

(2) rehabilitation for accessibility modifications: \$5,000 per housing unit.

(f) Funds for Administrative costs are limited to no more than 4 percent of the Direct Project Costs, exclusive of Match funds.

(g) The assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Project Costs, excluding Match funds. The loan will be at zero percent interest and include deferral of payment and annual pro-rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254.

(h) Any forgiveness of the Loan occurs upon the anniversary date of the Household's continuous occupancy as its Principal Residence and continues on an annual pro-rata basis until maturity of the Loan.

(i) To ensure affordability, the Department will impose the recapture provisions established in this chapter.

(j) Housing units that will be rehabilitated with HOME funds must meet or exceed the Texas Minimum Construction Standard (TMCS), as applicable and all applicable codes and standards. In addition, housing that is Rehabilitated under this chapter must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule. Housing units that are provided assistance for acquisition only must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300878

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TITLE 16. ECONOMIC REGULATION

**PART 8. TEXAS RACING
COMMISSION**

**CHAPTER 307. PROCEEDINGS BEFORE THE
COMMISSION**

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §307.8

The Texas Racing Commission proposes new 16 TAC §307.8, relating to Negotiated Rulemaking and Alternative Dispute Resolution. The new rule encourages the use of both negotiated rulemaking and alternative dispute resolution where practical and appropriate. The proposed rule results from a change made to the Texas Racing Act by HB 2271, 82nd Legislature, Regular Session.

Chuck Trout, Executive Director, has determined that for the first five-year period the new rule is in effect there will be no fiscal implications for state or local government as a result of enforcing the amendments.

Mr. Trout has determined that for each year of the first five years the new rule is in effect the anticipated public benefit will be to establish clear procedures for the use of negotiated rulemaking and alternative dispute resolution, as well as conformity with changes made to the Texas Racing Act by the Texas Legislature.

The new rule will have no adverse economic effect on small or micro-businesses, and therefore preparation of an economic impact statement and a regulatory flexibility analysis is not required.

There are no negative impacts upon employment conditions in this state as a result of the proposed new rule.

All comments or questions regarding the proposed new rule may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Carolyn Norwood, Assistant to the Executive Director for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080, telephone (512) 833-6699, or fax (512) 833-6907.

The new rule is proposed under Texas Revised Civil Statutes Annotated, Article 179e, §2.25, which requires the Commission to implement a policy to encourage the use of negotiated rulemaking and alternative dispute resolution.

The new rule implements Texas Revised Civil Statutes Annotated, Article 179e.

§307.8. Negotiated Rulemaking and Alternative Dispute Resolution.

(a) Policy. It is the Commission's policy to encourage the use of negotiated rulemaking and alternative dispute resolution procedures in appropriate situations.

(b) Negotiated Rulemaking. When the Commission finds that a rule to be proposed is likely to be complex, controversial, or affect

disparate groups, the Commission may propose to engage in negotiated rulemaking in accordance with Government Code, Chapter 2008.

(1) When negotiated rulemaking is considered, the Commission's general counsel, or designee, shall be the Commission's negotiated rulemaking convener.

(A) The convener shall assist in identifying persons who are likely to be affected by a proposed rule, including those who oppose issuance of a rule. The convener shall discuss with those persons or their representatives the factors provided in Government Code §2008.052(c).

(B) The convener shall then recommend to the Commission whether negotiated rulemaking is a feasible method to develop the proposed rule and shall report to the agency on the relevant considerations, including those listed in Government Code §2008.052(d).

(2) Upon the convener's recommendation to proceed, the Commission may initiate negotiated rulemaking according to the provisions of Government Code, Chapter 2008, including the appointment of the negotiated rulemaking committee's members under Government Code §2008.054.

(3) The executive secretary shall appoint the negotiated rulemaking committee's facilitator, subject to the requirements of Government Code §2008.055.

(c) Alternative Dispute Resolution. The Commission encourages the fair and expeditious resolution of disputes through alternative dispute resolution (ADR) procedures.

(1) ADR procedures include any procedure or combination of procedures described by Civil Practice and Remedies Code, Chapter 154. ADR procedures are intended to supplement and not limit other dispute resolution procedures available for use by the Commission.

(2) Any ADR procedure used to resolve disputes with the Commission shall conform with Government Code, Chapter 2009, and, to the extent possible, the model guidelines for the use of ADR issued by the State Office of Administrative Hearings (SOAH).

(3) Upon receipt of notice of a dispute, the Commission's executive secretary, in consultation with the Commission's general counsel, shall determine whether use of an ADR procedure is an appropriate method for resolving the dispute.

(4) If an ADR procedure is determined to be appropriate, the Commission's executive secretary shall recommend to the opposing party the use of ADR to resolve the dispute. The Commission's general counsel will collaborate with the opposing party to select an appropriate procedure for dispute resolution and implement the agreed upon procedure consistent with SOAH's model guidelines.

(5) ADR for Breach of Contract Claims. Resolution of breach of certain contract claims brought by a contractor against the Commission shall conform to the requirements of Government Code, Chapter 2260. The Commission adopts by reference the Office of the Attorney General's rules regarding the negotiation and mediation of certain contract disputes (1 Texas Administrative Code Part 3, Chapter 68).

(6) The requirements of Government Code, Chapter 2260, and the Office of the Attorney General's model rules are required prerequisites to a contractor filing suit in accordance with Civil Practices and Remedies Code, Chapter 107.

(d) The Commission's general counsel, or designee, shall coordinate the implementation of the policy set out in subsection (a) of this section in accordance with state law and provide necessary training. The Commission's general counsel, or designee, is designated as

the coordinator to implement the Commission's policy under this rule, provide necessary training, and collect data concerning the effectiveness of the implemented procedures.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 22, 2013.

TRD-201300800

Mark Fenner

General Counsel

Texas Racing Commission

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 833-6699

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CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

SUBCHAPTER A. RACETRACK LICENSES

DIVISION 2. ACTIVE AND INACTIVE RACETRACK LICENSES

16 TAC §309.53

The Texas Racing Commission proposes new 16 TAC §309.53. The section relates to the Commission's five-year review of the ownership and management of active racetrack licenses under §6.06(k) of the Texas Racing Act. The rule establishes the criteria used in scheduling the review of each racetrack license as well as the materials that will be used in preparing an executive secretary's report for the Commission's consideration. As part of the review, the rule also requires a background check on each person owning an interest of at least five percent of the association and for each officer, director, or management committee member who is not currently licensed as an Association Officer or Director. The rule also requires each association undergoing the review to provide an initial review fee of \$5,000 to cover the Commission's costs, and provides for a reconciliation of costs upon completion of the review.

Using the scheduling criteria set out in the proposed rule, currently active racetrack licenses will be reviewed on the following schedule:

2013 - Gillespie County Fair, Gulf Greyhound Park, Saddle Brook Park, Valle de los Tesoros

2014 - Gulf Coast Racing

2015 - None

2016 - Lone Star Park, Sam Houston Race Park, Valley Race Park

2017 - Retama Park

Chuck Trout, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing the new rule.

Mr. Trout has determined that for each year of the first five years that the new rule is in effect the anticipated public benefit will be to provide additional information to the Commission regarding

the ownership and management of active racetracks, as well as conformity with the requirements of the Texas Racing Act.

The new rule will have no adverse economic effect on small or micro-businesses, and therefore preparation of an economic impact statement and a regulatory flexibility analysis is not required.

There are no negative impacts upon employment conditions in this state as a result of the proposed amendment.

All comments or questions regarding the proposed new rule may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Carolyn Norwood, Assistant to the Executive Director for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080, telephone (512) 833-6699, or fax (512) 833-6907.

The new rule is proposed under Texas Revised Civil Statutes Annotated, Article 179e, §3.02, which authorizes the Commission to adopt rules to administer the Act, and §6.06(k), which requires the Commission to review the ownership and management of active licenses every five years.

The new rule implements Texas Revised Civil Statutes Annotated, Article 179e.

§309.53. Ownership and Management Review of Active Racetrack Licenses.

(a) Scheduling of review.

(1) Except as otherwise provided in this subsection, an association holding a racetrack license designated as "Active-Operating" or "Active-Other" shall be subject to an ownership and management review in calendar year 2013.

(2) An association that undergoes or has undergone an ownership and management review in connection with a change of controlling interest during 2008 or any subsequent year shall be subject to review under this section in the year beginning five years after the Commission approved the change in controlling interest.

(3) An association which receives its original license during or after calendar 2013 shall be subject to review under this section in the year beginning five years after its date of original licensure.

(4) On its own motion or at the request of an association, the Commission may adjust the schedule of ownership and management reviews so that the interval between an association's reviews is shorter than five years.

(b) Submission requirements. Not later than June 30 of the year in which an association is subject to review, the association shall submit to the Commission:

(1) copies of its current management, concession, and totalisator contracts;

(2) a copy of its current security plan;

(3) for each person owning an interest of at least five percent of the association and for each officer, director, or management committee member who is not currently licensed as an Association Officer or Director by the Commission:

(A) a completed background information form and written authorization for the Commission and the Department of Public Safety to conduct any investigation deemed necessary; and

(B) a set of fingerprints on a form prescribed by the Department of Public Safety, or if the person already has a set of fingerprints classified and on file with the Department of Public Safety, au-

thorization to resubmit those fingerprints to the Federal Bureau of Investigation and the Department of Public Safety for investigation;

(4) a review fee of \$5,000, to be held by the Commission in the state treasury in a suspense account until the review is complete or transferred to the Texas Racing Commission Fund as costs are incurred; and

(5) any other information required by the Commission.

(c) Commission Review.

(1) The executive secretary shall prepare a report for the Commission's review summarizing:

(A) the information provided by the association under this section or under §309.152 of this title (relating to Records);

(B) the Commission's inspection reports from the prior five years;

(C) the results of any inspections or investigations conducted by the Commission as part of the review; and

(D) any other information relevant to the ownership or management of the association.

(2) The executive secretary will separately provide to the Commission the results of any background investigations conducted by the Department of Public Safety.

(3) At the conclusion of each review, the Commission:

(A) may take any action authorized under the Act or the Rules; and

(B) shall schedule the next ownership and management review of the association's license. The Commission may require an association to undergo the next review in less than five years.

(d) Reconciliation of costs. Upon completion of the review, the Commission shall determine its total cost of processing the review, including its administrative costs and any investigative costs that are reimbursable to the Department of Public Safety.

(1) If the actual cost to the Commission of processing the review exceeds the amount of the review fee paid by the association, the Commission shall bill the association for any additional amount, to be paid not later than 30 days after receipt of a bill from the Commission.

(2) If the actual cost to the Commission of processing the review is less than the amount of the review fee paid by the association, the Commission shall refund the excess not later than 30 business days after the Commission's decision on the review becomes final.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 22, 2013.

TRD-201300799

Mark Fenner

General Counsel

Texas Racing Commission

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 833-6699



SUBCHAPTER D. GREYHOUND RACETRACKS

DIVISION 2. OPERATIONS

16 TAC §309.359

The Texas Racing Commission proposes an amendment to 16 TAC §309.359. The section relates to the prohibition of live lures in the training of greyhounds. The amendment prohibits the use of live or dead animals or fowl for training or racing purposes on association grounds. The rule creates an exception for the use of commercially available hides or pelts.

Chuck Trout, Executive Director, has determined that for the first five-year period the amendments are in effect there will be no fiscal implications for state or local government as a result of enforcing the amendments.

Mr. Trout has determined that for each year of the first five years the amendment to §309.359 is in effect the anticipated public benefit will be to discourage animal cruelty by prohibiting the use of an animal or fowl, whether alive or dead, from being used as a lure in greyhound training.

The amendment will have no adverse economic effect on small or micro-businesses, and therefore preparation of an economic impact statement and a regulatory flexibility analysis is not required.

There are no negative impacts upon employment conditions in this state as a result of the proposed amendment.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Carolyn Norwood, Assistant to the Executive Director for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080, telephone (512) 833-6699, or fax (512) 833-6907.

The amendment is proposed under Texas Revised Civil Statutes Annotated, Article 179e, §3.02, which authorizes the Commission to adopt rules to administer the Act.

The amendment implements Texas Revised Civil Statutes Annotated, Article 179e.

§309.359. *Use of Lures in Training or Racing. [Live Lures.]*

(a) An association may not permit the use of a live or dead animal or fowl for training or racing purposes [here] on association grounds. This subsection does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public.

(b) An association may not permit a greyhound to be kenneled or to race on association grounds if the association knows or can reasonably be expected to know that the greyhound was trained in a state that by statute or rule does not prohibit the knowing use of live lures.

(c) An association may not permit a greyhound to be kenneled or to race on association grounds if the association knows or can reasonably be expected to know that the greyhound has been banned from pari-mutuel racing by any racing jurisdiction.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 22, 2013.

TRD-201300810
Mark Fenner
General Counsel
Texas Racing Commission
Earliest possible date of adoption: April 7, 2013
For further information, please call: (512) 833-6699



CHAPTER 311. OTHER LICENSES

The Texas Racing Commission proposes amendments to 16 TAC §§311.6, 311.102, and 311.104 and new §311.217. These sections relate to: the denial, suspension, and revocation of occupational licenses; the qualifications and duties of greyhound owners; the qualifications and duties of trainers; and prohibited methods of training greyhounds.

The amendment to §311.6 clarifies that activities or practices that are detrimental to the best interest of racing animals are also a detrimental practice for the purpose of denying, suspending, or revoking an occupational license.

The amendments to §311.102 and §311.104 provide that a greyhound owner or trainer may not enter a greyhound into a race if the owner or trainer knows, or reasonably should know, that the greyhound was trained using a live or dead animal or fowl as a lure, whether in this state or out of this state. The prohibition does apply to the use of a commercially available lure that is made from cured animal hides or pelts.

New §311.217 provides that a person may not use a live or dead animal or fowl to train a greyhound, or send a greyhound to a facility, whether located in this state or out of this state, for the purpose of being trained using a live or dead animal or fowl. The rule also defines such activities and practices as a detrimental practice. The rule does not prevent the use of a commercially available lure that is made from cured animal hides or pelts.

Chuck Trout, Executive Director, has determined that for the first five-year period these changes are in effect there will be no fiscal implications for state or local government as a result of enforcing the amendments.

Mr. Trout has determined that for each year of the first five years these changes are in effect the anticipated public benefit will be to discourage animal cruelty by prohibiting the use of an animal or fowl, whether alive or dead, from being used as a lure in greyhound training.

The amendment will have no adverse economic effect on small or micro-businesses, and therefore preparation of an economic impact statement and a regulatory flexibility analysis is not required.

There are no negative impacts upon employment conditions in this state as a result of the proposed amendment.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Carolyn Norwood, Assistant to the Executive Director for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080, telephone (512) 833-6699, or fax (512) 833-6907.

SUBCHAPTER A. LICENSING PROVISIONS

DIVISION 1. OCCUPATIONAL LICENSES

16 TAC §311.6

The amendment is proposed under Texas Revised Civil Statutes Annotated, Article 179e, §3.02, which authorizes the Commission to adopt rules to administer the Act.

The amendment implements Texas Revised Civil Statutes Annotated, Article 179e.

§311.6. *Denial, Suspension and Revocation of Licenses.*

(a) (No change.)

(b) Grounds for Denial, Suspension, and Revocation of Licenses

(1) - (4) (No change.)

(5) Detrimental Practices. A license may be denied, suspended or revoked if it is determined that the licensee is engaged in activities or practices that are detrimental to the best interests of the public, racing animals, or to the racing industry.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 22, 2013.

TRD-201300811
Mark Fenner
General Counsel
Texas Racing Commission
Earliest possible date of adoption: April 7, 2013
For further information, please call: (512) 833-6699



SUBCHAPTER B. SPECIFIC LICENSES

16 TAC §311.102, §311.104

The amendments are proposed under Texas Revised Civil Statutes Annotated, Article 179e, §3.02, which authorizes the Commission to adopt rules to administer the Act.

The amendments implement Texas Revised Civil Statutes Annotated, Article 179e.

§311.102. *Greyhound Owners.*

(a) - (c) (No change.)

(d) Restriction on Racing. An owner may not enter a greyhound or cause a greyhound to be entered in a race at a racetrack if:

(1) the owner knows or can reasonably be expected to know that the greyhound was trained using a live or dead animal or fowl as a lure in this state or out of this state. This paragraph does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public;

(2) [(+) the owner or trainer is employed by the racetrack association in a management or supervisory position that is capable of affecting the conduct of races or pari-mutuel wagering at the racetrack; or

(3) [(2)] the owner or trainer is involved in any way with the sale or publication of tip sheets on association grounds.

§311.104. *Trainers.*

(a) - (e) (No change.)

(f) Restriction on Racing. A trainer may not enter a race animal or cause a race animal to be entered in a race at a racetrack if:

(1) the trainer knows or can reasonably be expected to know that the greyhound was trained using a live or dead animal or fowl as a lure in this state or out of this state. This paragraph does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public;

(2) [(4)] the owner or trainer is employed by the racetrack association in a management or supervisory position that is capable of affecting the conduct of races or pari-mutuel wagering at the racetrack;

(3) [(2)] the owner or trainer is involved in any way with the sale or publication of tip sheets on association grounds.

(g) - (k) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 22, 2013.

TRD-201300812

Mark Fenner

General Counsel

Texas Racing Commission

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 833-6699



SUBCHAPTER C. RESPONSIBILITIES OF INDIVIDUALS

16 TAC §311.217

The new rule is proposed under Texas Revised Civil Statutes Annotated, Article 179e, §3.02, which authorizes the Commission to adopt rules to administer the Act.

The new rule implements Texas Revised Civil Statutes Annotated, Article 179e.

§311.217. Greyhound Training.

(a) A person may not use a live or dead animal or fowl to train a greyhound, or send a greyhound to a facility located in this state or out of state for the purpose of being trained using a live or dead animal or fowl. Such activities and practices are detrimental to the best interests of a racing animal and the racing industry.

(b) This section does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 22, 2013.

TRD-201300813

Mark Fenner

General Counsel

Texas Racing Commission

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 833-6699



CHAPTER 315. OFFICIALS AND RULES FOR GREYHOUND RACING

SUBCHAPTER B. ENTRIES AND PRE-RACE PROCEDURES

16 TAC §315.112

The Texas Racing Commission proposes new 16 TAC §315.112, concerning the eligibility of greyhounds to participate in racing. The new rule permits a board of racing judges to ban a greyhound for life from being kenneled or participating in racing on association grounds if it finds that the greyhound has been trained at any facility that has engaged in any detrimental practice related to the training of greyhounds using a live or dead animal or fowl.

Chuck Trout, Executive Director, has determined that for the first five-year period the new section is in effect there will be no fiscal implications for state or local government as a result of enforcing the section as proposed.

Mr. Trout has determined that for each year of the first five years the new section is in effect the anticipated public benefit will be to discourage animal cruelty by prohibiting the use of an animal or fowl, whether alive or dead, from being used as a lure in greyhound training. There is no anticipated economic cost to individuals required to comply with the section as proposed.

The new section will have no adverse economic effect on small or micro-businesses, and therefore preparation of an economic impact statement and a regulatory flexibility analysis is not required.

There are no negative impacts upon employment conditions in this state as a result of the proposed section.

All comments or questions regarding the proposed section may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Carolyn Norwood, Assistant to the Executive Director for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080; telephone (512) 833-6699; or fax (512) 833-6907.

The new section is proposed under Texas Revised Civil Statutes Annotated, Article 179e, §3.02, which authorizes the Commission to adopt rules to administer the Act.

The new section implements Texas Revised Civil Statutes Annotated, Article 179e.

§315.112. Ineligibility Due to Improper Greyhound Training.

(a) The board of racing judges may ban a greyhound for life from being kenneled or participating in racing on association grounds if it finds that the greyhound has been trained at any facility that has engaged in any detrimental practice related to the training of greyhounds using a live or dead animal or fowl.

(b) This section does not apply to the use of a training lure that is made from cured animal hides or pelts and is commercially available to the public.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300814

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**PART 9. TEXAS LOTTERY
COMMISSION**

**CHAPTER 401. ADMINISTRATION OF STATE
LOTTERY ACT**

SUBCHAPTER D. LOTTERY GAME RULES

16 TAC §401.307

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §401.307, concerning "Pick 3" On-Line Game Rule. The purpose of the proposed amendments is to increase the frequency of drawings from two (2) per day to four (4) per day, increase the number of consecutive drawing plays that a player may purchase from twelve (12) to twenty-four (24), delete obsolete language, and correct a spelling error. The executive director shall determine the date on which drawing frequency will increase pursuant to this rule amendment, but that date shall be no later than October 13, 2013.

The amendments to 16 TAC §401.307, concerning "Pick 3" On-Line Game Rule, are proposed at the same time as substantially similar amendments to 16 TAC §401.316, concerning "Daily 4" On-Line Game Rule, and the fiscal impact of the two proposals have been estimated together. Kathy Pyka, Controller, has determined that the proposed amendments to the "Pick 3" On-Line Game Rule and the "Daily 4" On-Line Game Rule will result in an estimated \$9.1 million in additional revenue to the State for the first five-year period. The fiscal impact for each year of the first five years the amendments will be in effect is as follows: Fiscal Year (FY) 2014, \$1.64M; FY 2015, \$1.86M; FY 2016, \$1.86M; FY 2017, \$1.86M; FY 2018, \$1.86M. There will be no adverse effect on small businesses, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the amendments as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the amended rules will not have an economic effect on small businesses as defined in §2006.001(2) of the Texas Government Code.

Michael Anger, Director of Lottery Operations, has determined that for each year of the first five years the proposed amendments will be in effect, the anticipated public benefit will be an increase in the number of drawings and times that the game is offered, providing additional opportunities for the public to play the "Pick 3" game. It is also anticipated that the resulting increase in game participation opportunities will result in an associated increase in revenue for the Foundation School Fund.

The Commission requests comments on the proposed amendments from any interested person. Comments on the proposed amendments may be submitted to James Person, Assistant General Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us. The Commission will hold a public hearing on this proposal at 10:00

a.m. on March 20, 2013, at 611 E. 6th Street, Austin, Texas 78701. Comments must be received within 30 days after publication of this proposal in order to be considered.

The amendments are proposed under §466.015 of the Texas Government Code, which authorizes the Commission to adopt rules governing the operation of the lottery, and under §467.102 of the Texas Government Code, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

The proposed amendments implement Chapter 466 of the Texas Government Code.

§401.307. "Pick 3" On-Line Game Rule.

(a) - (b) (No change.)

(c) Play types

(1) (No change.)

(2) The [executive director shall determine a start date for Sum It Up play: The start date shall be no later than August 31, 2008. Otherwise, the] executive director may allow or disallow any type of play described in this subsection. Currently available play types must be posted on the commission's web site.

(d) Plays and tickets

(1) - (10) (No change.)

(11) A player may select the play type, base play amount, and draw [~~drawn~~] date and time for a play by:

(A) - (C) (No change.)

(12) - (13) (No change.)

(14) Consecutive plays

(A) Subject to subparagraph (B) of this paragraph, a [A] player may purchase one or more plays for any one or more of the next 12 drawings after the purchase and may purchase up to 12 consecutive night plays or 12 consecutive day plays.

(B) Beginning on the date when Pick 3 drawings will be held four times a day pursuant to subsection (f)(1)(A) of this section, a player may purchase one or more plays for any one or more of the next 24 drawings after the purchase and may purchase up to 24 consecutive plays for a particular drawing time.

(15) - (18) (No change.)

(e) (No change.)

(f) Drawings

(1) Subject to subparagraph (A) of this paragraph, Pick 3 drawings shall be held twice a day, Monday through Saturday, at 12:27 p.m. and 10:12 p.m., central time.

(A) Beginning on a date determined by the executive director, but no later than October 13, 2013, Pick 3 drawings shall be held four times a day, Monday through Saturday, at 10:00 a.m., 12:27 p.m., 6:00 p.m., and 10:12 p.m., central time.

(B) The executive director may change the drawing schedule, if necessary.

(2) - (5) (No change.)

(g) - (h) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 20, 2013.

TRD-201300742

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 344-5012



16 TAC §401.316

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §401.316, concerning "Daily 4" On-Line Game Rule. The purpose of the proposed amendments is to increase the frequency of drawings from two (2) per day to four (4) per day and to increase the number of consecutive drawing plays that a player may purchase from twelve (12) to twenty-four (24). The executive director shall determine the date on which drawing frequency will increase pursuant to this rule amendment, but that date shall be no later than October 13, 2013.

The amendments to 16 TAC §401.316, concerning "Daily 4" On-Line Game Rule, are proposed at the same time as substantially similar amendments to 16 TAC §401.307, concerning "Pick 3" On-Line Game Rule, and the fiscal impact of the two proposals have been estimated together. Kathy Pyka, Controller, has determined that the proposed amendments to the "Pick 3" On-Line Game Rule and the "Daily 4" On-Line Game Rule will result in an estimated \$9.1 million in additional revenue to the State for the first five-year period. The fiscal impact for each year of the first five years the amendments will be in effect is as follows: Fiscal Year (FY) 2014, \$1.64M; FY 2015, \$1.86M; FY 2016, \$1.86M; FY 2017, \$1.86M; FY 2018, \$1.86M. There will be no adverse effect on small businesses, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the amendments as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the amended rules will not have an economic effect on small businesses as defined in §2006.001(2) of the Texas Government Code.

Michael Anger, Director of Lottery Operations, has determined that for each year of the first five years the proposed amendments will be in effect, the anticipated public benefit will be an increase in the number of drawings and times that the game is offered, providing additional opportunities for the public to play the "Daily 4" game. It is also anticipated that the resulting increase in game participation opportunities will result in an associated increase in revenue for the Foundation School Fund.

The Commission requests comments on the proposed amendments from any interested person. Comments on the proposed amendments may be submitted to James Person, Assistant General Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us. The Commission will hold a public hearing on this proposal at 10:00 a.m. on March 20, 2013, at 611 E. 6th Street, Austin, Texas 78701. Comments must be received within 30 days after publication of this proposal in order to be considered.

The amendments are proposed under §466.015 of the Texas Government Code, which authorizes the Commission to adopt

rules governing the operation of the lottery, and under §467.102 of the Texas Government Code, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

The proposed amendments implement Chapter 466 of the Texas Government Code.

§401.316. "Daily 4" On-Line Game Rule.

(a) - (c) (No change.)

(d) Plays and tickets

(1) - (10) (No change.)

(11) Consecutive plays

(A) Subject to subparagraph (B) of this paragraph, a [A] player may purchase one or more plays for any one or more of the next 12 drawings after the purchase and may purchase up to 12 consecutive night plays or 12 consecutive day plays.

(B) Beginning on the date when Daily 4 drawings will be held four times a day pursuant to subsection (f)(1)(A) of this section, a player may purchase one or more plays for any one or more of the next 24 drawings after the purchase and may purchase up to 24 consecutive plays for a particular drawing time.

(12) - (15) (No change.)

(e) (No change.)

(f) Drawings

(1) Subject to subparagraph (A) of this paragraph, Daily 4 drawings shall be held twice a day, Monday through Saturday, at 12:27 p.m. and 10:12 p.m., central time.

(A) Beginning on a date determined by the executive director, but no later than October 13, 2013, Daily 4 drawings shall be held four times a day, Monday through Saturday, at 10:00 a.m., 12:27 p.m., 6:00 p.m., and 10:12 p.m., central time.

(B) The executive director may change the drawing schedule, if necessary.

(2) - (5) (No change.)

(g) - (i) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 20, 2013.

TRD-201300743

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 344-5012



TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §1.16

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to §1.16, concerning Contracts for Materials and Services. Specifically, these amendments will update the title of "Deputy Commissioner for Business and Finance/Chief Operating Officer" to "Deputy Commissioner for Finance and Administration/Chief Operating Officer," thereby reflecting the current and correct title for this office. These amendments further provide that the Commissioner's quarterly reports to the Board describing all contracts for materials and services need only contain those contracts that were executed under delegated authority and not considered by the Board or a Board Committee or by the Chair, Vice Chair, and Chair of the responsible board committees. Finally, these amendments authorize the Deputy Commissioner for Finance and Administration/Chief Operating Officer, in addition to the Commissioner, to approve contracts for the purchase of materials or services with a value over \$100,000, including the awarding of grants, when such an award involves no discretion by the Board or agency staff, i.e., when the agency is required by statute to enter into the contract.

Bill Franz, General Counsel, has determined that for each year of the first five years the section is in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the section.

Mr. Franz has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be enhanced agency efficiency. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Bill Franz, P.O. Box 12788, Austin, Texas 78711, william.franz@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Education Code, §61.027, which provides the Coordinating Board with the authority to effectuate the provisions of Chapter 61.

The amendments affect Texas Education Code, §61.027.

§1.16. *Contracts for Materials and Services.*

(a) - (b) (No change.)

(c) The Commissioner or the Deputy Commissioner for [~~Business and~~] Finance and Administration/Chief Operating Officer shall approve all contracts for the purchase of materials or services if the contract amount is less than or equal to \$100,000. The Commissioner may delegate his approval authority to a deputy, associate, or assistant commissioner if:

(1) The contract amount is less than or equal to \$5,000; or

(2) The Commissioner and the Deputy Commissioner for [~~Business and~~] Finance and Administration/Chief Operating Officer will be away from the agency and unavailable to approve contracts for more than one business day.

(d) The Commissioner shall provide a report to the Board, at least quarterly, describing all contracts for the purchase of materials or services that were executed under delegated authority and not consid-

ered by the Board or a Board committee or by the Chair, Vice Chair, and Chair of the responsible Board committee.

(e) (No change.)

(f) In the event that the agency is required by statute to enter into a contract for the purchase of materials or services with a value of over \$100,000, including the awarding of grants, approval of such a request or contract by the Board or a Board committee pursuant to subsection (a) or (b) of this section, as appropriate, shall not be required when such an award involves no discretion by the Board or agency staff. The Commissioner or Deputy Commissioner for Finance and Administration/Chief Operating Officer shall approve such contracts and report them to the Board at the next quarterly Board meeting following the approval.

(g) In the event that a contract for a given amount has been approved by either the Board or a Board committee, as applicable, and circumstances alter such that the expenditure necessary under the contract increases by not more than ten percent [~~per cent~~], the Commissioner or the Deputy Commissioner for [~~Business and~~] Finance and Administration/Chief Operating Officer may approve such an increase. Should the increase in expenditure exceed ten percent [~~per cent~~], the contract must be resubmitted for approval by the Board or the responsible Board committee, as appropriate.

(h) In the event that the Board or a Board committee, as applicable, has approved the issuance of a request for the purchase of materials or services that will result in the letting of contracts, including grants, to multiple vendors or providers of services, any resulting contract which by itself shall have a cost greater than \$100,000 must be approved by a majority of the Chair and Vice Chair of the Board and the Chair of the responsible Board committee unless such contracts are approved by the Board or the responsible Board committee, as appropriate. The Commissioner or the Deputy Commissioner for [~~Business and~~] Finance and Administration/Chief Operating Officer, in accordance with subsection (c) of this section, shall provide final approval of contracts with the selected vendors or providers of services if the contract amount is less than or equal to \$100,000.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2013.

TRD-201300775

Bill Franz

General Counsel

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PART 2. TEXAS EDUCATION AGENCY

CHAPTER 115. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR HEALTH EDUCATION

The State Board of Education (SBOE) proposes amendments to §§115.2-115.7, 115.22, and 115.23, concerning Texas essential knowledge and skills (TEKS) for health education. The sections establish the TEKS for health education instruction in elementary

and middle school. The proposed amendments would add student expectations for bullying prevention to the TEKS for health education as required by House Bill (HB) 1942, 82nd Texas Legislature, 2011.

The 82nd Texas Legislature, 2011, passed HB 1942, amending the Texas Education Code (TEC), §28.002, to define bullying and harassment. Under the TEC, §28.002, as amended, the SBOE shall adopt TEKS for the health curriculum, in consultation with the Texas School Safety Center, that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense in response to, and resolution of and intervention in bullying and harassment. The agency has worked with the Texas School Safety Center to provide recommendations for amendments to the health TEKS in Kindergarten-Grade 8 to address bullying behavior, including the addition of a specific bullying prevention strand for Grades 4-8.

The proposed amendments would have no procedural and reporting implications. The proposed amendments would have no locally maintained paperwork requirements.

Anita Givens, associate commissioner for standards and programs, has determined that for the first five-year period the proposed amendments are in effect there will be no additional costs for state or local government as a result of enforcing or administering the proposed amendments.

Ms. Givens has determined that for each year of the first five years the proposed amendments are in effect the public benefit anticipated as a result of enforcing the amendments would be access for students to additional information regarding the prevention of bullying through health education classes. There is no anticipated economic cost to persons who are required to comply with the proposed amendments.

In addition, there is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to rules@tea.state.tx.us or faxed to (512) 463-5337. A request for a public hearing on the proposed amendments submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register*.

SUBCHAPTER A. ELEMENTARY

19 TAC §§115.2 - 115.7

The amendments are proposed under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements, and §28.002(s), which authorizes the SBOE to adopt essential knowledge and skills for the health curriculum, in consultation with the Texas School Safety Center, that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense in response to, and resolution of and intervention in bullying and harassment.

The amendments implement the Texas Education Code, §§7.102(c)(4), 28.002(s), 37.001, and 37.0832.

§115.2. Health Education, Kindergarten.

(a) Introduction.

(1) In health education, students acquire the health information and skills necessary to become healthy adults and learn about behaviors in which they should and should not participate. To achieve that goal, students will understand the following: students should first seek guidance in the area of health from their parents; personal behaviors can increase or reduce health risks throughout the lifespan; health is influenced by a variety of factors; students can recognize and utilize health information and products; and personal/interpersonal skills are needed to promote individual, family, and community health.

(2) Kindergarten students are taught basic factors that contribute to health literacy. Students learn about their bodies and the behaviors necessary to protect them and keep them healthy. Students also understand how to seek help from parents and other trusted adults.

(b) Knowledge and skills.

(1) Health behaviors. The student recognizes that personal health decisions and behaviors affect health throughout life. The student is expected to:

(A) identify and practice personal health habits that help individuals stay healthy such as a proper amount of sleep and clean hands;

(B) identify types of foods that help the body grow such as healthy breakfast foods and snacks; and

(C) identify types of exercise and active play that are good for the body.

(2) Health behaviors. The student understands that behaviors result in healthy or unhealthy conditions throughout the life span. The student is expected to:

(A) identify the purpose of protective equipment such as a seat belt and a bicycle helmet;

(B) identify safe and unsafe places to play such as a back yard and a street;

(C) name the harmful effects of tobacco, alcohol, and other drugs;

(D) identify ways to avoid harming oneself or another person;

(E) practice safety rules during physical activity such as water safety and bike safety;

(F) identify how to get help from a parent and/or trusted adult when made to feel uncomfortable or unsafe by another person/adult;

(G) demonstrate procedures for responding to emergencies including dialing 911; and

(H) name objects that may be dangerous such as knives, scissors, and screwdrivers and tell how they can be harmful.

(3) Health behaviors. The student demonstrates decision-making skills for making health-promoting decisions. The student is expected to:

(A) demonstrate how to seek the help of parents/guardians and other trusted adults in making decisions and solving problems; and

(B) plan a healthy meal and/or snack.

(4) Health information. The student knows the basic structures and functions of the human body and how they relate to personal health. The student is expected to:

- (A) name the five senses;
- (B) name major body parts and their functions; and
- (C) name and demonstrate good posture principles such as standing straight with shoulders back.

(5) Health information. The student understands how to recognize health information. The student is expected to:

- (A) name people who can provide helpful health information such as parents, doctors, teachers, and nurses; and
- (B) explain the importance of health information.

(6) Influencing factors. The student understands the difference between being sick and being healthy. The student is expected to:

- (A) tell how germs cause illness and disease in people of all ages;
- (B) name symptoms of common illnesses and diseases;
- (C) explain practices used to control the spread of germs such as washing hands; and
- (D) discuss basic parts of the body's defense system against germs such as the skin.

(7) Influencing factors. The student understands that various factors influence personal health. The student is expected to:

- (A) tell how weather affects individual health such as dressing for warmth, protecting skin from the sun, and keeping classrooms and homes warm and cool; and
- (B) identify ways to prevent the transmission of head lice such as sharing brushes and caps.

(8) Personal/interpersonal skills. The student understands ways to communicate consideration and respect for self, family, friends, and others. The student is expected to:

- (A) recognize and describe individual differences and communicate appropriately and respectfully with all individuals;
- (B) explain the importance of showing consideration and respect for teachers, [parents, grandparents, other] family members, friends, peers, and other individuals; and
- (C) recognize and explain the importance of manners and rules for healthy communication and treating others with respect.

(9) Personal/interpersonal skills. The student comprehends the skills necessary for building and maintaining healthy relationships. The student is expected to:

- (A) identify and use refusal skills to avoid unsafe behavior situations such as saying no in unsafe situations and then telling an adult if he/she is threatened; and
- (B) demonstrate skills for making new acquaintances.

(10) Personal/interpersonal skills. The student understands that bullying behaviors result in unhealthy conditions throughout the life span. The student is expected to:

- (A) identify bullying behaviors;
- (B) identify replacement behaviors to avoid bullying friends, family members, and peers;

(C) demonstrate how to get help from a teacher, parent, or trusted adult in solving problems and conflicts with peers; and

(D) describe appropriate actions to take in response to bullying.

§115.3. *Health Education, Grade 1.*

(a) Introduction.

(1) In health education, students acquire the health information and skills necessary to become healthy adults and learn about behaviors in which they should and should not participate. To achieve that goal, students will understand the following: students should first seek guidance in the area of health from their parents; personal behaviors can increase or reduce health risks throughout the lifespan; health is influenced by a variety of factors; students can recognize and utilize health information and products; and personal/interpersonal skills are needed to promote individual, family, and community health.

(2) In Grade 1, students learn more about their bodies and how to care for themselves. Students also begin to learn that relationships exist between behaviors and health, and that there are community helpers such as nurses and doctors who help them stay healthy. In Grade 1, students also learn skills to help them make friends, resolve conflicts, and solve problems.

(b) Knowledge and skills.

(1) Health behaviors. The student understands that personal health decisions and behaviors affect health throughout the life span. The student is expected to:

- (A) describe and practice activities that enhance individual health such as enough sleep, nutrition, and exercise; and
- (B) describe activities that are provided by health care professionals such as medical check-up and dental exams.

(2) Health behaviors. The student understands that safe, unsafe, and/or harmful behaviors result in positive and negative consequences throughout the life span. The student is expected to:

- (A) identify and use protective equipment to prevent injury;
- (B) name safe play environments;
- (C) explain the harmful effects of, and how to avoid, alcohol, tobacco, and other drugs;
- (D) identify ways to avoid weapons and drugs or harming oneself or another person by staying away from dangerous situations and reporting to an adult;
- (E) identify safety rules that help to prevent poisoning;
- (F) identify and describe safe bicycle skills;
- (G) identify and practice safety rules during play; and
- (H) identify how to get help from a parent and/or trusted adult when made to feel uncomfortable or unsafe by another person/adult.

(3) Health behaviors. The student demonstrates basic critical-thinking, decision-making, goal setting, and problem-solving skills for making health-promoting decisions. The student is expected to:

- (A) explain ways to seek the help of parents/guardians and other trusted adults in making decisions and solving problems;
- (B) describe how decisions can be reached and problems can be solved; and

(C) explain the importance of goal setting and task completion.

(4) Health information. The student understands the basic structure and functions of the human body and how they relate to personal health throughout the life span. The student is expected to:

(A) identify and demonstrate use of the five senses;

(B) identify major body structures and organs and describes their basic functions; and

(C) identify and apply principles of good posture for healthy growth and development.

(5) Health information. The student recognizes health information. The student is expected to:

(A) identify people who can provide helpful health information such as parents, teachers, nurses, and physicians; and

(B) list ways health information can be used such as knowing how to brush teeth properly.

(6) Health information. The student recognizes the influence of media and technology on health behaviors. The student is expected to:

(A) identify examples of health information provided by various media; and

(B) cite examples of how media and technology can affect behaviors such as television, computers, and video games.

(7) Influencing factors. The student understands the difference between sickness and health in people of all ages. The student is expected to:

(A) name types of germs that cause illness and disease;

(B) identify common illnesses and diseases and their symptoms; and

(C) explain common practices that control the way germs are spread.

(8) Influencing factors. The student understands factors that influence the health of an individual. The student is expected to:

(A) name various members of his/her family who help them to promote and practice health habits; and

(B) describe ways in which a person's health may be affected by weather and pollution.

(9) Personal/interpersonal skills. The student knows healthy and appropriate ways to communicate consideration and respect for self, family, friends, and others. The student is expected to:

(A) demonstrate respectful communication;

(B) list unique ways that individuals use to communicate such as using body language and gestures;

(C) express needs, wants, and emotions in appropriate ways; and

(D) describe and practice techniques of self-control such as thinking before acting; [-]

(E) list ways of actively discouraging bullying; and

(F) practice refusal skills and replacement behaviors to avoid and resolve conflicts.

(10) Personal/interpersonal skills. The student comprehends the skills necessary for building and maintaining healthy relationships. The student is expected to:

(A) describe ways to build and maintain friendships; and

(B) practice refusal skills to avoid and resolve conflicts.

(11) Personal/interpersonal skills. The student understands that bullying behaviors result in negative consequences throughout the life span. The student is expected to:

(A) demonstrate how to get help from a teacher, parent, or trusted adult when made to feel bullied, uncomfortable, or unsafe by a peer or an adult; and

(B) describe negative consequences for both the victim and the bully.

§115.4. Health Education, Grade 2.

(a) Introduction.

(1) In health education, students acquire the health information and skills necessary to become healthy adults and learn about behaviors in which they should and should not participate. To achieve that goal, students will understand the following: students should first seek guidance in the area of health from their parents; personal behaviors can increase or reduce health risks throughout the lifespan; health is influenced by a variety of factors; students can recognize and utilize health information and products; and personal/interpersonal skills are needed to promote individual, family, and community health.

(2) In Grade 2, students learn age-appropriate skills to help them stay healthy and safe. Students are taught, in a basic way, that there are external factors that influence our health, and that the students can take responsibility for protecting their health. Students are taught ways to communicate in a healthy way with friends, families, and classmates.

(b) Knowledge and skills.

(1) Health behaviors. The student understands that personal health decisions and behaviors affect health throughout the life span. The student is expected to:

(A) explain actions an individual can take when not feeling well;

(B) describe and demonstrate personal health habits such as brushing and flossing teeth and exercise;

(C) identify food groups and describe the effects of eating too much sugar and fat such as knowing that sugar causes dental cavities;

(D) identify healthy and unhealthy food choices such as a healthy breakfast and snacks and fast food choices;

(E) define stress and describe healthy behaviors that reduce stress such as exercise;

(F) describe the importance of individual health maintenance activities such as regular medical and dental checkups; and

(G) describe how a healthy diet can help protect the body against some diseases.

(2) Health behaviors. The student understands that safe, unsafe, and/or harmful behaviors result in positive and negative consequences throughout the life span. The student is expected to:

(A) identify and describe the harmful effects of alcohol, tobacco, and other drugs on the body;

(B) identify ways to avoid deliberate and accidental injuries;

(C) explain the need to use protective equipment when engaging in certain recreational activities such as skateboarding, rollerblading, cycling, and swimming;

(D) explain the importance of avoiding dangerous substances;

(E) explain ways to avoid weapons and report the presence of weapons to an adult; and

(F) identify a trusted adult such as a parent, teacher, or law enforcement officer and identify ways to react when approached and made to feel uncomfortable or unsafe by another person/adult.

(3) Health information. The student understands the basic structures and functions of the human body and how they relate to personal health throughout the life span. The student is expected to:

(A) describe behaviors that protect the body structure and organs such as wearing a seat belt and wearing a bicycle helmet;

(B) identify the major organs of the body such as the heart, lungs, and brain and describe their primary function; and

(C) identify the major systems of the body.

(4) Health information. The student understands the difference between sickness and health in persons of all ages. The student is expected to:

(A) explain ways in which germs are transmitted, methods of preventing the spread of germs, and the importance of immunization;

(B) identify causes of disease other than germs such as allergies and heart disease;

(C) explain how the body provides protection from disease; and

(D) apply practices to control spread of germs in daily life such as hand washing and skin care.

(5) Health information. The student recognizes factors that influence the health of an individual. The student is expected to:

(A) identify hazards in the environment that affect health and safety such as having loaded guns in the home and drinking untreated water;

(B) describe strategies for protecting the environment and the relationship between the environment and individual health such as air pollution and ultra-violet rays; and

(C) identify personal responsibilities as a family member in promoting and practicing health behaviors.

(6) Health information. The student understands how to recognize health information. The student is expected to:

(A) identify people who can provide health information; and

(B) identify various media that provide health information.

(7) Influencing factors. The student recognizes the influence of media and technology on personal health. The student is expected to:

(A) describe how the media can influence an individual's health choices such as television ads for fast foods and breakfast cereals; and

(B) discuss how personal health care products have been improved by technology such as sunblock and safety equipment.

(8) Influencing factors. The student understands how relationships influence personal health. The student is expected to:

(A) describe how friends can influence a person's health; and

(B) recognize unsafe requests made by friends such as playing in the street.

(9) Personal/interpersonal skills. The student comprehends the skills necessary for building and maintaining healthy relationships. The student is expected to:

(A) identify characteristics needed to be a responsible family member or friend;

(B) list and demonstrate good listening skills; and

(C) demonstrate refusal skills.

(10) Personal/interpersonal skills. The student understands healthy and appropriate ways to communicate consideration and respect for self, family, friends, and others. The student is expected to:

(A) describe how to effectively communicate;

(B) express needs, wants, and emotions in healthy ways; [and]

(C) explain the benefits of practicing self-control; [-]

(D) describe how to effectively respond to bullying of oneself or others; and

(E) explain the benefits of treating friends, teachers, family members, and peers with respect.

(11) Personal/interpersonal skills. The student demonstrates critical-thinking, decision-making, goal-setting and problem-solving skills for making health-promoting decisions. The student is expected to:

(A) explain steps in the decision-making process and the importance of following the steps;

(B) describe how personal-health decisions affect self and others;

(C) list the steps and describe the importance of task completion and goal setting; and

(D) explain why obtaining help, especially from parents/trusted adults, can be helpful when making decisions about personal health.

(12) Personal/interpersonal skills. The student understands that bullying behaviors result in negative consequences throughout the life span. The student is expected to:

(A) identify negative consequences that result from bullying behaviors; and

(B) identify ways to respond when made to feel uncomfortable or unsafe.

§115.5. Health Education, Grade 3.

(a) Introduction.

(1) In health education, students acquire the health information and skills necessary to become healthy adults and learn about behaviors in which they should and should not participate. To achieve that goal, students will understand the following: students should first seek guidance in the area of health from their parents; personal behaviors can increase or reduce health risks throughout the lifespan; health is influenced by a variety of factors; students can recognize and utilize health information and products; and personal/interpersonal skills are needed to promote individual, family, and community health.

(2) In Grade 3, students build on the knowledge and skills learned in the second grade. In addition to students learning health knowledge that can help them improve or maintain health habits, students begin to learn about body systems, growth and development, and the relationship between health and the environment. Students are also introduced to interpersonal skills that they will use to communicate and interact with friends and family.

(b) Knowledge and skills.

(1) Health behaviors. The student explains ways to enhance and maintain health throughout the life span. The student is expected to:

- (A) explain how personal-health habits affect self and others;
- (B) describe ways to improve personal fitness;
- (C) identify types of nutrients;
- (D) describe food combinations in a balanced diet such as a food pyramid;
- (E) explain the effects of too much stress and practice ways to reduce stress such as exercising and listening to music; and
- (F) explain strategies for maintaining a personal-health plan such as a commitment to good personal hygiene and checkups and an awareness of safety skills.

(2) Health behaviors. The student recognizes and performs behaviors that reduce health risks throughout the life span. The student is expected to:

- (A) explain the need for obeying safety rules at home, school, work, and play such as bike safety and avoidance of weapons;
- (B) describe the harmful effects of alcohol, tobacco, and other drugs on physical, mental, and social health and why people should not use them;
- (C) identify reasons for avoiding violence, gangs, weapons and drugs;
- (D) identify examples of abuse and describe appropriate responses; and
- (E) describe the importance of taking personal responsibility for reducing hazards, avoiding accidents, and preventing accidental injuries.

(3) Health behaviors. The student knows and engages in behaviors that prevent disease and speed recovery from illness. The student is expected to:

- (A) identify health behaviors that prevent the spread of disease and avoid behaviors that cause the transmission of disease;
- (B) explain the body's defense systems and how they fight disease; and
- (C) explain actions to take when illness occurs such as informing parents/adults.

(4) Health information. The student names the basic structures and functions of the human body and explains how they relate to personal health throughout the life span. The student is expected to:

- (A) list and explain the stages of growth and development;
- (B) name and locate major components of the body systems; and
- (C) explain the interrelationships of the body systems.

(5) Health information. The student knows how to access health information. The student is expected to:

- (A) demonstrate the ability to locate resources from parents and family members, school, and the community; and
- (B) demonstrate the ability to locate school and community health helpers.

(6) Influencing factors. The student understands factors that influence individual and community health. The student is expected to:

- (A) relate how protecting the environment promotes individual and community health;
- (B) identify common health problems that result from unhealthy environments such as skin cancer, poisoning, and respiratory illness;
- (C) identify ways to protect personal health from environmental hazards such as lead removal and no-smoking laws; and
- (D) describe roles and responsibilities of family members in promoting and practicing health behaviors.

(7) Influencing factors. The student comprehends ways in which media and technology influence individual and community health. The student is expected to:

- (A) describe how the media can influence knowledge and health behaviors; and
- (B) identify ways in which health care has improved as a result of technology.

(8) Personal/interpersonal skills. The student understands how relationships can positively and negatively influence individual and community health. The student is expected to:

- (A) distinguish between positive and negative peer pressures and their effects on personal health behaviors; and
- (B) describe ways in which peers and families can work together to build a healthy community.

(9) Personal/interpersonal skills. The student uses social skills in building and maintaining healthy and respectful relationships. The student is expected to:

- (A) demonstrate effective verbal and nonverbal communication, including when responding to a bullying issue;
- (B) demonstrate strategies for resolving conflicts;
- (C) explain how to be a good friend;
- (D) demonstrate effective listening skills;
- (E) identify ways to communicate with parents/trusted adults about health concerns; [and]
- (F) demonstrate refusal skills; and [-]

(G) describe ways to help build self-esteem for oneself, friends, and others.

(10) Personal/interpersonal skills. The student explains healthy ways to communicate consideration and respect for self, family, friends, and others. The student is expected to:

(A) demonstrate respectful communication with family members, peers, teachers, and others;

(B) describe the mental-health value of respectful communication such as reducing the potential for angry behavior; and

(C) express needs, wants, and emotions in healthy ways.

(11) Personal/interpersonal skills. The student recognizes critical-thinking, decision-making, goal-setting, and problem-solving skills for making health-promoting decisions. The student is expected to:

(A) practice critical-thinking skills when making health decisions;

(B) gather data to help make informed health choices;

(C) explain the positive and negative consequences of making a health-related choice;

(D) explain the importance of seeking assistance in making decisions about health;

(E) practice assertive communication and refusal skills;

(F) describe goal-setting skills; and

(G) explain the importance of time passage with respect to a goal.

§115.6. Health Education, Grade 4.

(a) Introduction.

(1) In health education, students acquire the health information and skills necessary to become healthy adults and learn about behaviors in which they should and should not participate. To achieve that goal, students will understand the following: students should first seek guidance in the area of health from their parents; personal behaviors can increase or reduce health risks throughout the lifespan; health is influenced by a variety of factors; students can recognize and utilize health information and products; and personal/interpersonal skills are needed to promote individual, family, and community health.

(2) In addition to learning age-specific health information on a variety of health topics, students in Grade 4 learn how their behaviors affect their body systems. Students are taught the consequences of unsafe behaviors, and how to protect themselves from harm. Students also learn the value and use of social skills in dealing with peer pressure, communicating effectively, and assisting in forming healthy social relationships.

(b) Knowledge and skills.

(1) Health information. The student recognizes ways to enhance and maintain health throughout the life span. The student is expected to:

(A) identify the benefits of six major nutrients contained in foods;

(B) identify information on menus and food labels;

(C) differentiate between aerobic and anaerobic exercise;

(D) explain the physical, mental, and social benefits of fitness;

(E) explain how sleep affects academic performance; and

(F) identify the importance of taking personal responsibility for developing and maintaining a personal health plan such as fitness, nutrition, stress management, and personal safety.

(2) Health information. The student recognizes the basic structures and functions of the human body and how they relate to personal health throughout the life span. The student is expected to:

(A) describe how health behaviors affect body systems; and

(B) describe the basic function of major body systems such as the circulatory and digestive systems.

(3) Health information. The student knows how to access health information. The student is expected to:

(A) identify characteristics of health information; and

(B) describe the importance of accessing health information through a variety of health resources.

(4) Health behaviors. The student understands and engages in behaviors that reduce health risks throughout the life span. The student is expected to:

(A) identify the use and abuse of prescription and non-prescription medication such as over-the-counter;

(B) explain the similarities of and the differences between medications and street drugs/substances;

(C) describe the short-term and long-term harmful effects of tobacco, alcohol, and other substances such as physical, mental, social, and legal consequences;

(D) identify ways to avoid drugs and list alternatives for the use of drugs and other substances;

(E) explain how to develop a home-safety and emergency response plan such as fire safety;

(F) identify strategies for avoiding deliberate and accidental injuries such as gang violence and accidents at school and home; and

(G) identify types of abuse such as physical, emotional, and sexual and know ways to seek help from a parent and/or trusted adult.

(5) Health behavior. The student comprehends and practices behaviors that prevent disease and speed recovery from illness. The student is expected to:

(A) set personal-health goals for preventing illness;

(B) identify different pathogens and explain how the body protects itself from pathogens such as viruses, bacteria, and fungi;

(C) discuss ways in which prevention and transmission of disease are affected by individual behaviors; and

(D) distinguish between communicable and noncommunicable diseases.

(6) Influencing factors. The student comprehends factors that influence individual, family, and community health. The student is expected to:

(A) identify similarities in which healthy environments can be promoted in homes, schools, and communities; and

(B) explain the importance of a community environmental health plan.

(7) Influencing factors. The student comprehends ways in which the media and technology can influence individual and community health. The student is expected to:

(A) explain how the media can influence health behaviors; and

(B) describe ways technology can influence health.

(8) Personal/interpersonal skills. The student understands how relationships can positively and negatively influence individual and community health. The student is expected to:

(A) explain the influence of peer pressure on an individual's social and emotional health; and

(B) describe the importance of being a positive role model for health.

(9) Personal/interpersonal skills. The student uses social skills for building and maintaining healthy relationships throughout the life span. The student is expected to:

(A) describe the qualities of a good friend;

(B) explain steps in conflict resolution;

(C) explain the importance of refusal skills and why the influence of negative peer pressure and the media should be resisted;

(D) demonstrate healthy ways of gaining attention;

(E) identify critical issues that should be discussed with parents/trusted adults such as puberty, harassment, and emotions;

(F) analyze strengths and weaknesses in personal communication skills;

(G) identify positive and negative characteristics of social groups such as gangs, clubs, and cliques; and

(H) demonstrate refusal skills.

(10) Personal/interpersonal skills. The student explains healthy ways to communicate consideration and respect for self, family, friends, and others. The student is expected to:

(A) demonstrate consideration when communicating with individuals who communicate in unique ways such as someone having a speech defect, someone not speaking English, or someone being deaf;

(B) describe healthy ways of responding to disrespectful behavior; and

(C) describe strategies for self-control and the importance of dealing with emotions appropriately and how they affect thoughts and behaviors.

(11) Personal/interpersonal skills. The student demonstrates critical-thinking, decision-making, goal-setting, and problem-solving skills for making health-promoting decisions. The student is expected to:

(A) explain the importance of seeking guidance from parents and other trusted adults in making healthy decisions and solving problems;

(B) explain the advantages of setting short and long-term goals;

(C) describe the importance of parental guidance and other trusted adults in goal setting;

(D) explain the dangers of yielding to peer pressures by assessing risks/consequences; and

(E) describe steps in decision making and problem solving.

(12) Bullying prevention. The student uses social skills for building and maintaining respectful relationships throughout the life span. The student is expected to:

(A) describe the characteristics of a bully;

(B) demonstrate appropriate ways to deal with disrespectful behavior;

(C) explain the difference between assertive behavior and aggressive behavior;

(D) describe the negative impact bullying has on both the victim and the bully; and

(E) demonstrate consideration when interacting with individuals who communicate in unique ways such as someone who has a speech impediment, someone who does not speak English, or someone who has an exceptionally high vocabulary.

§115.7. Health Education, Grade 5.

(a) Introduction.

(1) In health education, students acquire the health information and skills necessary to become healthy adults and learn about behaviors in which they should and should not participate. To achieve that goal, students will understand the following: students should first seek guidance in the area of health from their parents; personal behaviors can increase or reduce health risks throughout the lifespan; health is influenced by a variety of factors; students can recognize and utilize health information and products; and personal/interpersonal skills are needed to promote individual, family, and community health.

(2) In addition to age-appropriate information about personal health habits, students in Grade 5 are taught about the human body and the changes that come with puberty. Students are taught how to maintain healthy body systems and prevent disease. Students also learn how technology and the media influence personal health and how to apply problem-solving skills to improve or protect their health.

(b) Knowledge and skills.

(1) Health information. The student knows ways to enhance and maintain personal health throughout the life span. The student is expected to:

(A) examine and analyze food labels and menus for nutritional content;

(B) apply information from the food guide pyramid to making healthy food choices;

(C) identify foods that are sources of one or more of the six major nutrients;

(D) calculate the relationship between caloric intake and energy expenditure;

(E) differentiate between health-related and skill-related physical activities; and

(F) analyze the components of a personal health maintenance plan for individuals and families such as stress management and personal safety.

(2) Health information. The student recognizes the basic structures and functions of the human body and how they relate to personal health throughout the life span. The student is expected to:

(A) describe the structure, functions, and interdependence of major body systems; and

(B) identify and describe changes in male and female anatomy that occur during puberty.

(3) Health information. The student knows how to utilize health information. The student is expected to:

(A) describe methods of accessing health information; and

(B) demonstrate ways to communicate health information such as posters, videos, and brochures.

(4) Health behaviors. The student recognizes behaviors that prevent disease and speed recovery from illness. The student is expected to:

(A) explain how to maintain the healthy status of body systems such as avoiding smoking to protect the lungs;

(B) relate the importance of immunizations in disease prevention;

(C) distinguish between myth and fact related to disease and disease prevention;

(D) list the effects of harmful viruses on the body such as polio, Human Immunodeficiency Virus (HIV), and the common cold; and

(E) explain how to manage common minor illnesses such as colds and skin infections.

(5) Health behaviors. The student comprehends behaviors that reduce health risks throughout the life span. The student is expected to:

(A) describe the use and abuse of prescription and non-prescription medications such as over-the-counter;

(B) compare and contrast the effects of medications and street drugs;

(C) analyze the short-term and long-term harmful effects of alcohol, tobacco, and other substances on the functions of the body systems such as physical, mental, social, and legal consequences;

(D) identify and describe alternatives to drug and substance use;

(E) demonstrate strategies for preventing and responding to deliberate and accidental injuries;

(F) explain strategies for avoiding violence, gangs, weapons and drugs;

(G) describe response procedures for emergency situations;

(H) describe the value of seeking advice from parents and educational personnel about unsafe behaviors; and

(I) explain the impact of neglect and abuse.

(6) Influencing factors. The student understands how relationships influence individual and family health including the skills necessary for building and maintaining relationships. The student is expected to:

(A) distinguish between healthy and harmful influences of friends and others;

(B) describe the characteristics of healthy and unhealthy friendships;

(C) identify ways to enhance personal communication skills;

(D) analyze respectful ways to communicate with family, adults, and peers;

(E) demonstrate ways of communicating with individuals who communicate in unique ways such as having a speech defect and not speaking English;

(F) apply and practice strategies for self-control; and

(G) describe strategies for stress management.

(7) Influencing factors. The student comprehends ways in which media and technology influence individual and community health. The student is expected to:

(A) research the effect of media on health-promoting behaviors; and

(B) identify the use of health-related technology in the school such as audiometry and the Internet.

(8) Influencing factors. The student knows how various factors influence individual, family, and community health throughout the life span. The student is expected to:

(A) explain the importance of communication skills as a major influence on the social and emotional health of the individual and family;

(B) describe daily and weekly activities that promote the health of a family;

(C) describe how a safe school environment relates to a healthy community; and

(D) identify environmental protection programs that promote community health such as recycling, waste disposal, or safe food packaging.

(9) Personal/interpersonal skills. The student demonstrates critical-thinking, decision-making, goal-setting and problem-solving skills for making healthy decisions. The student is expected to:

(A) describe health-related situations that require parent/adult assistance such as a discussion of the health-related consequences of high-risk health behaviors or going to a doctor;

(B) assess the role of assertiveness, refusal skills, and peer pressure on decision making and problem solving;

(C) utilize critical thinking in decision making and problem solving;

(D) describe benefits in setting and implementing short and long-term goals;

(E) explain the necessity of perseverance to achieve goals; and

(F) explain the importance of parent/trusted adult guidance in goal setting.

(10) Bullying prevention. The student understands positive bystander prevention strategies in helping to maintain positive relationships and respect. The student is expected to:

(A) analyze respectful ways to communicate with friends, family, teachers, and others;

(B) describe appropriate ways to address bullying on behalf of a friend or peer;

(C) explain the differences among teasing, joking, playing around, and bullying;

(D) identify methods available through which to report bullying; and

(E) describe the difference between reporting and tattling.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300860

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 475-1497



SUBCHAPTER B. MIDDLE SCHOOL

19 TAC §115.22, §115.23

The amendments are proposed under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements, and §28.002(s), which authorizes the SBOE to adopt essential knowledge and skills for the health curriculum, in consultation with the Texas School Safety Center, that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense in response to, and resolution of and intervention in bullying and harassment.

The amendments implement the Texas Education Code, §§7.102(c)(4), 28.002(s), 37.001, and 37.0832.

§115.22. Health Education, Grade 6.

(a) Introduction.

(1) In health education, students acquire the health information and skills necessary to become healthy adults and learn about behaviors in which they should and should not participate. To achieve that goal, students will understand the following: students should first seek guidance in the area of health from their parents; personal behaviors can increase or reduce health risks throughout the lifespan; health is influenced by a variety of factors; students can recognize and utilize health information and products; and personal/interpersonal skills are needed to promote individual, family, and community health.

(2) In middle school, students learn about health behaviors that will safeguard their health as well as information related to understanding puberty and the reproductive process. Students are taught about factors in their environment that impact, not only their health and the health of their families, but the health of their communities as well. Middle school students learn to refine their critical-thinking skills to avoid unsafe situations, analyze health information and products, and maintain healthy relationships. Students begin to investigate health in the broader context of community.

(b) Knowledge and skills.

(1) Health information. The student comprehends ways to enhance and maintain personal health throughout the life span. The student is expected to:

(A) analyze healthy and unhealthy dietary practices;

(B) explain the importance of a personal dietary and exercise plan;

(C) compare immediate and long-range effects of personal health care choices such as personal and dental hygiene;

(D) identify causes and affects associated with poor body image such as eating disorders and growth patterns;

(E) examine the concept of cost versus effectiveness of health-care products;

(F) describe the mental, physical, and social benefits of regular exercise and fitness;

(G) describe the importance of establishing and implementing a periodic health-maintenance clinical assessment; and

(H) demonstrate strategies for managing stress.

(2) Health information. The student recognizes ways that body structure and function relate to personal health throughout the life span. The student is expected to:

(A) analyze the relationships among the body systems;

(B) describe changes in male and female anatomy and physiology during puberty;

(C) analyze the role of hormones as they relate to growth and development and personal health; and

(D) describe menstrual health and identify the relationship to reproduction.

(3) Health information. The student comprehends and utilizes concepts relating to health promotion and disease prevention. The student is expected to:

(A) describe various modes of disease transmission;

(B) compare healthy cell growth to cell growth in the disease process; and

(C) list noncommunicable and hereditary diseases and respective prevention and treatment techniques.

(4) Health information. The student comprehends ways of researching, accessing, and analyzing health information. The student is expected to:

(A) list ways to evaluate health products, practices, and services such as sunblocks, dietary aides, and over-the-counter medications; and

(B) use critical thinking to research and evaluate health information.

(5) Health behaviors. The student engages in behaviors that reduce health risks throughout the life span. The student is expected to:

(A) analyze the use and abuse of prescriptions and non-prescription medications such as over-the-counter;

(B) examine social influences on drug-taking behaviors;

(C) describe chemical dependency and addiction to tobacco, alcohol, and other drugs and substances;

(D) explain the relationship between tobacco, alcohol, drugs, and other substances and the role these items play in unsafe situations such as drinking and driving and Human Immunodeficiency Virus (HIV)/Sexually Transmitted Disease (STD) transmission;

(E) identify ways to prevent the use of tobacco, alcohol, drugs, and other substances such as alternative activities;

(F) demonstrate an understanding of basic first-aid procedures;

(G) demonstrate strategies for the prevention of and response to deliberate and accidental injuries such as using conflict resolution skills instead of fighting and wearing a seat belt;

(H) identify and describe strategies for avoiding drugs, violence, gangs, weapons, and other harmful situations; and

(I) explain the consequences of sexual activity and the benefits of abstinence.

(6) Influencing factors. The student understands how factors in the environment influence individual and community health. The student is expected to:

(A) identify factors that affect an individual's physical, emotional, and social health such as school climate and safety measures; and

(B) make healthy choices from among environmental alternatives such as leaving a smoke-filled room or selecting healthy snacks from vending machines.

(7) Influencing factors. The student recognizes how relationships influence individual health behaviors including skills necessary for building and maintaining relationships. The student is expected to:

(A) differentiate between positive and negative relationships that can affect individual health such as clubs, gangs, or families;

(B) explain ways of maintaining healthy relationships such as resisting peer pressure to engage in unsafe behavior;

(C) practice conflict resolution/mediation skills;

(D) describe strategies such as abstinence for communicating refusal to engage in unsafe behaviors; and

(E) describe methods for communicating important issues with parents and peers.

(8) Influencing factors. The student comprehends how media and technology influence individual and community health. The student is expected to:

(A) identify and analyze various media and technologies that influence individual and community health such as computer software and the World Wide Web; and

(B) explain the relationship between health needs and technology development such as the development of a Human Immunodeficiency Virus (HIV) vaccine.

(9) Influencing factors. The student differentiates between positive and negative family influences. The student is expected to:

(A) develop strategies for supporting and respecting all family members; and

(B) identify strategies for coping with unhealthy behaviors in the family such as abuse, alcoholism, and neglect.

(10) Personal/interpersonal skills. The student describes healthy and respectful ways to communicate consideration and respect for self, family, friends, and others. The student is expected to:

(A) demonstrate ways to communicate empathy to others and have consideration for others;

(B) assess healthy ways of responding to disrespectful behaviors such as mediation;

(C) practice methods for self-control;

(D) describe healthy ways to express affection and love;

(E) describe ways to manage anxiety and grief;

(F) describe ways to control anger and emotions when responding to others;

(G) demonstrate strategies for showing respect for individual differences such as race, physical appearance, and socioeconomic status;

(H) [~~F~~] define stress and its effects on individual health and relationships; and

(I) [~~G~~] identify stressors and their impact on the health of the individual and family.

(11) Personal/interpersonal skills. The student analyzes information and applies critical-thinking, decision-making, goal-setting and problem-solving skills for making health-promoting decisions. The student is expected to:

(A) seek the input of parents and other trusted adults in problem solving and goal setting;

(B) demonstrate the use of refusal skills in unsafe situations;

(C) explain the impact of peer pressure on decision making;

(D) compare the risks and benefits of various health behaviors such as choosing not to smoke; and

(E) identify the possible health implications of long-term personal and vocational goals.

(12) Bullying prevention. The student engages in behaviors that reduce the risk of bullying throughout the life span. The student is expected to:

(A) analyze the impact that bullying has on both victims and bullies;

(B) identify strategies for prevention and intervention of all forms of bullying such as emotional, physical, social, and sexual;

(C) describe healthy ways to be assertive without being aggressive; and

(D) assess healthy and appropriate ways of responding to bullying.

§115.23. Health Education, Grades [Grade] 7-8.

(a) Introduction.

(1) In health education, students acquire the health information and skills necessary to become healthy adults and learn about behaviors in which they should and should not participate. To achieve that goal, students will understand the following: students should first seek guidance in the area of health from their parents; personal behav-

iors can increase or reduce health risks throughout the lifespan; health is influenced by a variety of factors; students can recognize and utilize health information and products; and personal/interpersonal skills are needed to promote individual, family, and community health.

(2) In middle school, students learn about health behaviors that will safeguard their health as well as information related to understanding puberty and the reproductive process. Students are taught about factors in their environment that impact, not only their health and the health of their families, but the health of their communities as well. Middle school students learn to refine their critical-thinking skills to avoid unsafe situations, analyze health information and products, and maintain healthy relationships. Students begin to investigate health in the broader context of community.

(b) Knowledge and skills.

(1) Health information. The student comprehends ways to enhance and maintain personal health throughout the life span. The student is expected to:

(A) analyze the interrelationships of physical, mental, and social health;

(B) identify and describe types of eating disorders such as bulimia, anorexia, or overeating;

(C) identify and describe lifetime strategies for prevention and early identification of disorders such as depression and anxiety that may lead to long-term disability; and

(D) describe the life cycle of human beings including birth, dying, and death.

(2) Health information. The student recognizes ways that body structure and function relate to personal health throughout the life span. The student is expected to:

(A) explain how differences in growth patterns among adolescents such as onset of puberty may affect personal health;

(B) describe the influence of the endocrine system on growth and development;

(C) compare and contrast changes in males and females;

(D) describe physiological and emotional changes that occur during pregnancy; and

(E) examine physical and emotional development during adolescence.

(3) Health information. The student comprehends and utilizes concepts relating to health promotion and disease prevention throughout the life span. The student is expected to:

(A) explain the role of preventive health measures, immunizations, and treatment in disease prevention such as wellness exams and dental check-ups;

(B) analyze risks for contracting specific diseases based on pathogenic, genetic, age, cultural, environmental, and behavioral factors;

(C) distinguish risk factors associated with communicable and noncommunicable diseases; and

(D) summarize the facts related to Human Immunodeficiency Virus (HIV) infection and sexually transmitted diseases.

(4) Health information. The student knows how to research, access, analyze, and use health information. The student is expected to:

(A) use critical thinking to analyze and use health information such as interpreting media messages;

(B) develop evaluation criteria for health information;

(C) demonstrate ways to use health information to help self and others; and

(D) discuss the legal implications regarding sexual activity as it relates to minor persons.

(5) Health behaviors. The student engages in behaviors that reduce health risks throughout the life span. The student is expected to:

(A) analyze and demonstrate strategies for preventing and responding to deliberate and accidental injuries;

(B) describe the dangers associated with a variety of weapons;

(C) identify strategies for prevention and intervention of emotional, physical, and sexual abuse;

(D) identify information relating to abstinence;

(E) analyze the importance of abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;

(F) discuss abstinence from sexual activity as the only method that is 100% effective in preventing pregnancy, sexually transmitted diseases, and the sexual transmission of HIV or acquired immune deficiency syndrome, and the emotional trauma associated with adolescent sexual activity;

(G) demonstrate basic first-aid procedures including Cardiopulmonary Resuscitation (CPR) and the choking rescue;

(H) explain the impact of chemical dependency and addiction to tobacco, alcohol, drugs and other substances;

(I) relate medicine and other drug use to communicable disease, prenatal health, health problems in later life, and other adverse consequences;

(J) identify ways to prevent the use of tobacco, alcohol, and other drugs such as alternative activities;

(K) apply strategies for avoiding violence, gangs, weapons and drugs; and

(L) explain the importance of complying with rules prohibiting possession of drugs and weapons.

(6) Influencing factors. The student understands how physical and social environmental factors can influence individual and community health throughout the life span. The student is expected to:

(A) relate physical and social environmental factors to individual and community health such as climate and gangs; and

(B) describe the application of strategies for controlling the environment such as emission control, water quality, and waste management.

(7) Influencing factors. The student investigates positive and negative relationships that influence individual, family, and community health. The student is expected to:

(A) analyze positive and negative relationships that influence individual and community health such as families, peers, and role models; and

(B) develop strategies for monitoring positive and negative relationships that influence health.

(8) Influencing factors. The student researches ways in which media and technology influence individual and community health throughout the life span. The student is expected to:

(A) explain the role of media and technology in influencing individuals and community health such as watching television or reading a newspaper and billboard; and

(B) explain how programmers develop media to influence buying decisions.

(9) Influencing factors. The student understands how social factors impact personal, family, community, and world health. The student is expected to:

(A) describe personal health behaviors and knowledge unique to different generations and populations; and

(B) describe characteristics that contribute to family health.

(10) Personal/interpersonal skills. The student recognizes and uses communication skills in building and maintaining healthy relationships. The student is expected to:

(A) differentiate between positive and negative peer pressure;

(B) describe the application of effective coping skills;

(C) distinguish between effective and ineffective listening such as paying attention to the speaker versus not making eye-contact;

(D) summarize and relate conflict resolution/mediation skills to personal situations; and

(E) appraise the importance of social groups.

(11) Personal/interpersonal skills. The student understands, analyzes, and applies healthy ways to communicate consideration and respect for self, family, friends, and others. The student is expected to:

(A) describe techniques for responding to criticism;

(B) demonstrate strategies for coping with problems and stress;

(C) describe strategies to show respect for individual differences including age differences;

(D) describe methods of communicating emotions;

(E) describe the effect of stress on personal and family health; and

(F) describe the relationships between emotions and stress.

(12) Personal/interpersonal skills. The student analyzes information and applies critical-thinking, decision-making, goal-setting and problem-solving skills for making health-promoting decisions. The student is expected to:

(A) interpret critical issues related to solving health problems;

(B) relate practices and steps necessary for making health decisions;

(C) appraise the risks and benefits of decision-making about personal health;

(D) predict the consequences of refusal skills in various situations;

(E) examine the effects of peer pressure on decision making;

(F) develop strategies for setting long-term personal and vocational goals; and

(G) demonstrate time-management skills.

(13) Bullying prevention. The student analyzes bullying information and applies strategies for enhancing and maintaining healthy personal relationships throughout the life span. The student is expected to:

(A) analyze strategies for preventing bullying, harassment, dating violence, and sexual assault;

(B) describe the seriousness of various forms of bullying such as harassment, acquaintance rape, and sexual abuse;

(C) demonstrate empathy toward others;

(D) analyze ways to show disapproval of inconsiderate and disrespectful bullying behavior; and

(E) recognize the responsibility to report bullying behavior.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300861

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 475-1497



CHAPTER 117. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR FINE ARTS

The State Board of Education (SBOE) proposes new §§117.101-117.119, 117.201-117.213, and 117.301-117.326, concerning Texas essential knowledge and skills (TEKS) for fine arts. The proposed new sections would establish revised TEKS for fine arts courses in elementary, middle school, and high school with an implementation date of the 2015-2016 school year.

Applications for appointment to fine arts TEKS review committees were accepted by the Texas Education Agency (TEA) from October 2010 to early January 2011. Applications received prior to the November 2010 SBOE meeting were provided to SBOE members at the November meeting so that members could begin nominating individuals to serve on these committees. Applications received after the November 2010 SBOE meeting were provided to SBOE members at the January 2011 meeting so that board members could complete the nominations. Nominations for expert reviewers and fine arts TEKS review committee members were made in February 2011.

The fine arts TEKS review committees were convened in Austin in May 2012 to begin work on draft recommendations for revisions to the TEKS. The committees met again in June 2012 to complete their initial draft recommendations. In July 2012, the first draft recommendations were provided to the board and to the board-appointed expert reviewers and posted to the TEA website for informal public feedback. At the July 2012 Committee of the Full Board meeting, expert reviewers and representatives from the TEKS review committees provided invited testimony on the first draft recommendations. In August, expert reviewers provided feedback on the committees' draft recommendations. Copies of the reviews provided by the expert reviewers were distributed to the TEKS review committee members and posted to the TEA website in September.

The fine arts TEKS review committees met again in September 2012 to review feedback and complete recommendations for revisions to the fine arts TEKS. The final recommendations from the review committees were provided to the Committee of the Full Board at the November 2012 meeting and were posted on the TEA website.

At its meeting on February 1, 2013, the SBOE approved proposed new 19 TAC Chapter 117, Subchapters D-F, for first reading and filing authorization.

The proposed new sections would have no procedural and reporting implications. The proposed new sections would have no locally maintained paperwork requirements.

Anita Givens, associate commissioner for standards and programs, has determined that for the first five-year period the proposed new sections are in effect there will be fiscal implications for state and local government as a result of enforcing or administering the proposed new sections.

There are fiscal implications for the TEA in fiscal years (FYs) 2012 and 2013 to reimburse committee members for travel to review and revise the fine arts TEKS. There are also implications for the TEA to create professional development to help teachers and administrators understand the revisions to the TEKS. For fiscal years 2012 and 2013, the estimated cost to the TEA for reviewing and revising the TEKS is \$143,360.

There are anticipated fiscal implications for school districts and charter schools to implement the revised TEKS, which may include the need for professional development and revisions to district-developed databases, curriculum, and scope and sequence documents. Since curriculum and instruction decisions are made at the local district level, it is difficult to estimate the fiscal impact on any given district.

Ms. Givens has determined that for each year of the first five years the proposed new sections are in effect the public benefit anticipated as a result of enforcing the new sections would include better alignment of the TEKS and coordination of the standards with the adoption of instructional materials. There is no anticipated economic cost to persons who are required to comply with the proposed new sections.

In addition, there is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to

rules@tea.state.tx.us or faxed to (512) 463-5337. The State Board of Education will hold a public hearing in conjunction with the regularly scheduled April 2013 State Board of Education meeting. Information about the public hearing will be posted at <http://www.tea.state.tx.us/index4.aspx?id=3785> once available.

SUBCHAPTER D. ELEMENTARY

19 TAC §§117.101 - 117.119

The new sections are proposed under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements, and §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials.

The new sections implement the Texas Education Code, §7.102(c)(4) and §28.002.

§117.101. Implementation of Texas Essential Knowledge and Skills for Fine Arts, Elementary, Adopted 2013.

(a) The provisions of §§117.101-117.119 of this subchapter shall be implemented by school districts.

(b) No later than August 31, 2014, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for fine arts as adopted in §§117.101-117.119 of this subchapter.

(c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §§117.101-117.119 of this subchapter shall be implemented beginning with the 2015-2016 school year and apply to the 2015-2016 and subsequent school years.

(d) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (b) of this section, the commissioner shall determine no later than August 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §§117.101-117.119 of this subchapter shall be implemented for the following school year.

(e) Sections 117.1-117.19 of this chapter shall be superseded by the implementation of §§117.101-117.119 under this section.

§117.102. Art, Kindergarten, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures

for organizing the knowledge and skills students are expected to acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences, as sources for thinking about, planning, and creating original artworks. Students communicate their thoughts and ideas with innovation and creativity. Through art, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: observation and perception. The student develops and expands visual literacy skills using critical thinking, imagination, and the senses to observe and explore the world by learning about, understanding, and applying the elements of art, principles of design, and expressive qualities. The student uses what the student sees, knows, and has experienced as sources for examining, understanding, and creating artworks. The student is expected to:

(A) gather information from subjects in the environment using the senses; and

(B) identify the elements of art, including line, shape, color, texture, and form, and the principles of design, including repetition/pattern and balance, in the environment.

(2) Creative expression. The student communicates ideas through original artworks using a variety of media with appropriate skills. The student expresses thoughts and ideas creatively while challenging the imagination, fostering reflective thinking, and developing disciplined effort and progressive problem-solving skills. The student is expected to:

(A) create artworks using a variety of lines, shapes, colors, textures, and forms;

(B) arrange components intuitively to create artworks; and

(C) use a variety of materials to develop manipulative skills while engaging in opportunities for exploration through drawing, painting, printmaking, constructing artworks, and sculpting, including modeled forms.

(3) Historical and cultural relevance. The student demonstrates an understanding of art history and culture by analyzing artistic styles, historical periods, and a variety of cultures. The student develops global awareness and respect for the traditions and contributions of diverse cultures. The student is expected to:

(A) identify simple subjects expressed in artworks;

(B) share ideas about personal experiences such as family and friends and develop awareness and sensitivity to differing experiences and opinions through artwork;

(C) identify the uses of art in everyday life; and

(D) relate visual art concepts to other disciplines.

(4) Critical evaluation and response. The student responds to and analyzes artworks of self and others, contributing to the development of lifelong skills of making informed judgments and reasoned evaluations. The student is expected to:

(A) express ideas about personal artworks or portfolios;

(B) express ideas found in collections such as real or virtual art museums, galleries, portfolios, or exhibitions using original artworks created by artists or peers; and

(C) compile collections of artwork such as physical artwork, electronic images, sketchbooks, or portfolios for the purposes of self-evaluations or exhibitions.

§117.103. Music, Kindergarten, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: music literacy, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to sing, play, read, write, and/or move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes musical sound. The student is expected to:

(A) identify the differences between the five voices, including singing, speaking, inner, whispering, and calling voices;

(B) identify the timbre of adult and child singing voices;

(C) identify the timbre of instrument families;

(D) identify same/different in beat/rhythm, higher/lower, louder/softer, faster/slower, and simple patterns in musical performances; and

(E) identify beat, rhythm, and simple two-tone or three-tone melodies using iconic representation.

(2) Creative expression. The student performs a varied repertoire of developmentally appropriate music in informal or formal settings. The student is expected to:

(A) sing or play classroom instruments independently or in groups;

(B) sing songs or play classroom instruments from diverse cultures and styles independently or in groups;

(C) move alone or with others to a varied repertoire of music using gross and fine locomotor and non-locomotor movement;

(D) perform simple partwork, including beat versus rhythm; and

(E) perform music using louder/softer and faster/slower.

(3) Historical and cultural relevance. The student examines music in relation to history and cultures. The student is expected to:

(A) sing songs and play musical games, including rhymes, folk music, and seasonal music; and

(B) identify simple interdisciplinary concepts related to music.

(4) Critical evaluation and response. The student listens to, responds to, and evaluates music and musical performances. The student is expected to:

(A) identify and demonstrate appropriate audience behavior during live or recorded performances;

(B) identify steady beat in musical performances; and

(C) compare same/different in beat/rhythm, higher/lower, louder/softer, faster/slower, and simple patterns in musical performances.

§117.104. Theatre, Kindergarten, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) develop self-awareness through dramatic play;

(B) explore space using expressive movement;

(C) imitate sounds; and

(D) imitate and recreate objects in dramatic play.

(2) Creative expression: performance. The student interprets characters using the voice and body expressively and creates dramatizations. The student is expected to:

(A) demonstrate safe use of movement and voice;

(B) assume roles through imitation and recreation;

(C) identify the characteristics of dramatic play; and

(D) participate in dramatic play.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) create playing space using common objects such as tables or chairs;

(B) create costumes using simple materials such as cardboard, newspaper, or fabric;

(C) rehearse dramatic play; and

(D) cooperate with others in dramatic play.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) rehearse and perform real and imaginative situations of family cultures of students in the class; and

(B) rehearse and perform stories from American history.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) discuss, practice, and display appropriate audience behavior; and

(B) respond to dramatic activities through discussion.

§117.105. Art, Grade 1, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expres-

sion. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences, as sources for thinking about, planning, and creating original artworks. Students communicate their thoughts and ideas with innovation and creativity. Through art, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: observation and perception. The student develops and expands visual literacy skills using critical thinking, imagination, and the senses to observe and explore the world by learning, understanding, and applying the elements of art and principles of design. The student uses what the student sees, knows, and has experienced as sources for examining, understanding, and creating artworks. The student is expected to:

(A) identify similarities, differences, and variations among subjects in the environment using the senses; and

(B) identify the elements of art, including line, shape, color, texture, and form, and the principles of design, including emphasis, repetition/pattern, and balance, in nature and human-made environments.

(2) Creative expression. The student communicates ideas through original artworks using a variety of media with appropriate skills. The student expresses thoughts and ideas creatively while challenging the imagination, fostering reflective thinking, and developing disciplined effort and progressive problem-solving skills. The student is expected to:

(A) invent images that combine a variety of lines, shapes, colors, textures, and forms;

(B) place components in orderly arrangements to create designs; and

(C) increase manipulative skills necessary for using a variety of materials to produce drawings, paintings, prints, constructions, and sculptures, including modeled forms.

(3) Historical and cultural relevance. The student demonstrates an understanding of art history and culture by analyzing artistic styles, historical periods, and a variety of cultures. The student develops global awareness and respect for the traditions and contributions of diverse cultures. The student is expected to:

(A) identify simple ideas expressed in artworks through different media;

(B) demonstrate an understanding that art is created globally by all people throughout time;

(C) discuss the use of art in everyday life; and

(D) relate visual art concepts to other disciplines.

(4) Critical evaluation and response. The student responds to and analyzes artworks of self and others, contributing to the development of lifelong skills of making informed judgments and reasoned evaluations. The student is expected to:

(A) explain ideas about personal artworks;

(B) identify ideas found in collections such as real or virtual art museums, galleries, portfolios, or exhibitions using original artworks created by artists or peers; and

(C) compile collections of artwork such as physical artwork, electronic images, sketchbooks, or portfolios for the purposes of self-evaluations or exhibitions.

§117.106. Music, Grade 1, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: music literacy, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to sing, play, read, write, and/or move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes musical sound and reads, writes, and reproduces music notation. The student is expected to:

(A) identify the known five voices and adult/children singing voices;

(B) identify visually and aurally the instrument families;

(C) use basic music terminology in describing changes in tempo, including allegro/largo, and dynamics, including forte/piano; and

(D) identify and label repetition and contrast in simple songs such as ab, aaba, or abac patterns.

(2) Foundations: music literacy. The student reads, writes, and reproduces music notation. Technology and other tools may be used to read, write, and reproduce musical examples. The student is expected to:

(A) read, write, and reproduce rhythmic patterns, including quarter note/paired eighth notes and quarter; and

(B) read, write, and reproduce melodic patterns, including three tones from the pentatonic scale.

(3) Creative expression. The student performs a varied repertoire of developmentally appropriate music in informal or formal settings. The student is expected to:

(A) sing tunefully or play classroom instruments, including rhythmic and melodic patterns, independently or in groups;

(B) sing songs or play classroom instruments from diverse cultures and styles, independently or in groups;

(C) move alone or with others to a varied repertoire of music using gross and fine locomotor and non-locomotor movement;

(D) perform simple part work, including beat versus rhythm, rhythmic ostinato, and vocal exploration; and

(E) perform music using tempo, including allegro/largo, and dynamics, including forte/piano.

(4) Creative expression. The student creates and explores new musical ideas. The student is expected to:

(A) create short, rhythmic patterns using known rhythms;

and
(B) create short, melodic patterns using known pitches;

(C) explore new musical ideas using singing voice and classroom instruments.

(5) Historical and cultural relevance. The student examines music in relation to history and cultures. The student is expected to:

(A) sing songs and play musical games, including rhymes, patriotic events, folk music, and seasonal music;

(B) identify steady beat in short musical excerpts from various periods or times in history and diverse cultures; and

(C) identify simple interdisciplinary concepts relating to music.

(6) Critical evaluation and response. The student listens to, responds to, and evaluates music and musical performances. The student is expected to:

(A) identify and demonstrate appropriate audience behavior during live or recorded performances;

(B) recognize known rhythmic and melodic elements in simple aural examples using known terminology;

(C) distinguish same/different between beat/rhythm, higher/lower, louder/softer, faster/slower, and simple patterns in musical performances; and

(D) respond verbally or through movement to short musical examples.

§117.107. Theatre, Grade 1, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) develop confidence and self-awareness through dramatic play;

(B) develop spatial awareness in dramatic play using expressive and rhythmic movement;

(C) imitate actions and sounds; and

(D) imitate and create animate and inanimate objects in dramatic play.

(2) Creative expression: performance. The student interprets characters using the voice and body expressively and creates dramatizations. The student is expected to:

(A) demonstrate safe use of movement and voice;

(B) create roles through imitation;

(C) dramatize simple stories; and

(D) dramatize poems and songs.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) discuss aspects of the environment for use in dramatic play such as location or climate;

(B) adapt the environment for dramatic play using common objects such as tables or chairs;

(C) rehearse dramatic play; and

(D) cooperate with others in dramatic play.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) imitate life experiences from school and community cultures in dramatic play; and

(B) explore diverse cultural and historical experiences through fables, myths, or fairytale in dramatic play.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) discuss, practice, and display appropriate audience behavior;

(B) discuss dramatic activities; and

(C) discuss the use of music, creative movement, and visual components in dramatic play.

§117.108. Art, Grade 2, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences, as sources for thinking about, planning, and creating original artworks. Students communicate their thoughts and ideas with innovation and creativity. Through art, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: observation and perception. The student develops and expands visual literacy skills using critical thinking, imagination, and the senses to observe and explore the world by learning about, understanding, and applying the elements of art, principles of design, and expressive qualities. The student uses what the

student sees, knows, and has experienced as sources for examining, understanding, and creating artworks. The student is expected to:

(A) compare and contrast variations in objects and subjects from the environment using the senses; and

(B) identify the elements of art, including line, shape, color, texture, form, and space, and the principles of design, including emphasis, repetition/pattern, movement/rhythm, and balance.

(2) Creative expression. The student communicates ideas through original artworks using a variety of media with appropriate skills. The student expresses thoughts and ideas creatively while challenging the imagination, fostering reflective thinking, and developing disciplined effort and progressive problem-solving skills. The student is expected to:

(A) express ideas and feelings in personal artworks using a variety of lines, shapes, colors, textures, forms, and space;

(B) create compositions using the elements of art and principles of design; and

(C) identify and practice skills necessary for producing drawings, paintings, prints, constructions, and sculpture, including modeled forms, using a variety of materials.

(3) Historical and cultural relevance. The student demonstrates an understanding of art history and culture by analyzing artistic styles, historical periods, and a variety of cultures. The student develops global awareness and respect for the traditions and contributions of diverse cultures. The student is expected to:

(A) interpret stories, content, and meanings in a variety of artworks;

(B) examine historical and contemporary artworks created by men and women, making connections to various cultures;

(C) analyze how art affects everyday life and is connected to jobs in art and design; and

(D) relate visual art concepts to other disciplines.

(4) Critical evaluation and response. The student responds to and analyzes artworks of self and others, contributing to the development of lifelong skills of making informed judgments and reasoned evaluations. The student is expected to:

(A) support reasons for preferences in personal artworks;

(B) compare and contrast ideas found in collections such as real or virtual art museums, galleries, portfolios, or exhibitions using original artworks created by artists or peers; and

(C) compile collections of artwork such as physical artwork, electronic images, sketchbooks, or portfolios for the purposes of self evaluations or exhibitions.

§117.109. Music, Grade 2, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expres-

sion. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: music literacy, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to sing, play, read, write, and/or move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes musical sound. The student is expected to:

(A) identify choral voices, including unison versus ensemble;

(B) identify instruments visually and aurally;

(C) use known music terminology to explain musical examples of tempo, including presto, moderato, and andante, and dynamics, including fortissimo and pianissimo; and

(D) identify and label simple small forms such as aaba and abac.

(2) Foundations: music literacy. The student reads, writes, and reproduces music notation. Technology and other tools may be used to read, write, and reproduce musical examples. The student is expected to:

(A) read, write, and reproduce rhythmic patterns using standard notation in 2/4 meter, including half note/half rest;

(B) read, write, and reproduce pentatonic melodic patterns using standard staff notation; and

(C) read, write, and reproduce basic music terminology, including allegro/largo and forte/piano.

(3) Creative expression. The student performs a varied repertoire of developmentally appropriate music in informal or formal settings. The student is expected to:

(A) sing tunefully or play classroom instruments, including rhythmic and melodic patterns, independently or in groups;

(B) sing songs or play classroom instruments from diverse cultures and styles, independently or in groups;

(C) move alone or with others to a varied repertoire of music using gross and fine locomotor and non-locomotor movement;

(D) perform simple part work, including rhythmic ostinato, and vocal exploration such as singing, speaking, and chanting; and

(E) perform music using tempo, including presto, moderato, and andante, and dynamics, including fortissimo and pianissimo.

(4) Creative expression. The student creates and explores new musical ideas. The student is expected to:

(A) create rhythmic phrases using known rhythms;

(B) create melodic phrases using known pitches; and

(C) explore new musical ideas in phrases using singing voice and classroom instruments.

(5) Historical and cultural relevance. The student examines music in relation to history and cultures. The student is expected to:

(A) sing songs and play musical games, including patriotic, folk, and seasonal music;

(B) examine short musical excerpts from various periods or times in history and diverse and local cultures; and

(C) identify simple interdisciplinary concepts relating to music.

(6) Critical evaluation and response. The student listens to, responds to, and evaluates music and musical performances. The student is expected to:

(A) begin to practice appropriate audience behavior during live or recorded performances;

(B) recognize known rhythmic and melodic elements in simple aural examples using known terminology;

(C) distinguish between rhythms, higher/lower pitches, louder/softer dynamics, faster/slower tempos, and simple patterns in musical performances; and

(D) respond verbally or through movement to short musical examples.

§117.110. Theatre, Grade 2, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views

to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) react to sensory experiences such as sight or sound through dramatic play;

(B) expand spatial awareness in dramatic play using expressive and rhythmic movement;

(C) participate in dramatic play using actions, sounds, and dialogue; and

(D) role play, imitate, and recreate dialogue.

(2) Creative expression: performance. The student interprets characters using the voice and body expressively and creates dramatizations. The student is expected to:

(A) demonstrate safe use of movement and voice;

(B) role play in real life and imaginative situations through narrative pantomime, dramatic play, and story dramatization;

(C) create dramatizations of limited-action stories using simple pantomime or puppetry; and

(D) dramatize poems and songs using simple pantomime or puppetry.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) select aspects of the environment such as location, climate, or time for use in dramatic play;

(B) adapt the environment for dramatic play using common objects such as tables or chairs;

(C) plan dramatic play; and

(D) cooperate and interact with others in dramatic play.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) imitate life experiences from school and community cultures in dramatic play; and

(B) explore diverse cultural and historical experiences through fables, myths, or fairytales in dramatic play.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) discuss, practice, and display appropriate audience behavior;

(B) react to and discuss dramatic activities; and

(C) integrate music, creative movement, and visual components in dramatic play.

§117.111. Art, Grade 3, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences, as sources for thinking about, planning, and creating original artworks. Students communicate their thoughts and ideas with innovation and creativity. Through art, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: observation and perception. The student develops and expands visual literacy skills using critical thinking, imagination, and the senses to observe and explore the world by learning about, understanding, and applying the elements of art, principles of design, and expressive qualities. The student uses what the student sees, knows, and has experienced as sources for examining, understanding, and creating artworks. The student is expected to:

(A) explore ideas from life experiences about self, peers, family, school, or community and from the imagination as sources for original works of art;

(B) use appropriate vocabulary when discussing the elements of art, including line, shape, color, texture, form, space, and value, and the principles of design, including emphasis, repetition/pattern, movement/rhythm, contrast/variety, balance, proportion, and unity; and

(C) discuss the elements of art as building blocks and the principles of design as organizers of works of art.

(2) Creative expression. The student communicates ideas through original artworks using a variety of media with appropriate skills. The student expresses thoughts and ideas creatively while challenging the imagination, fostering reflective thinking, and developing disciplined effort and progressive problem solving skills. The student is expected to:

(A) integrate ideas drawn from life experiences to create original works of art;

(B) create compositions using the elements of art and principles of design; and

(C) produce drawings; paintings; prints; sculpture, including modeled forms; and other art forms such as ceramics, fiber art, constructions, mixed media, installation art, digital art and media, and photographic imagery using a variety of materials.

(3) Historical and cultural relevance. The student demonstrates an understanding of art history and culture by analyzing artistic styles, historical periods, and a variety of cultures. The student develops global awareness and respect for the traditions and contributions of diverse cultures. The student is expected to:

(A) identify simple main ideas expressed in artworks from various times and places;

(B) compare and contrast artworks created by historical and contemporary men and women, making connections to various cultures;

(C) connect art to career opportunities for positions such as architects, animators, cartoonists, engineers, fashion designers, film makers, graphic artists, illustrators, interior designers, photographers, and web designers; and

(D) investigate the connections of visual art concepts to other disciplines.

(4) Critical evaluation and response. The student responds to and analyzes artworks of self and others, contributing to the development of lifelong skills of making informed judgments and reasoned evaluations. The student is expected to:

(A) evaluate the elements of art, principles of design, or expressive qualities in artworks of self, peers, and historical and contemporary artists;

(B) use methods such as oral response or artist statements to identify main ideas found in collections of artworks created by self, peers, and major historical or contemporary artists in real or virtual portfolios, galleries, or art museums; and

(C) compile collections of personal artworks such as physical artworks, electronic images, sketchbooks, or portfolios for purposes of self assessment or exhibition.

§117.112. Music, Grade 3, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: music literacy, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to sing, play, read, write, and/or move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship

of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes musical sound. The student is expected to:

(A) categorize and explain a variety of musical sounds, including those of children and adult voices;

(B) categorize and explain a variety of musical sounds, including those of woodwind, brass, string, percussion, and instruments from various cultures;

(C) use known music symbols and terminology referring to rhythm; melody; timbre; form; tempo; and dynamics, including mezzo piano and mezzo forte, to identify musical sounds presented aurally; and

(D) identify and label small and large musical forms such as abac, AB, and ABA presented aurally in simple songs and larger works.

(2) Foundations: music literacy. The student reads, writes, and reproduces music notation using a system. Technology and other tools may be used to read, write, and reproduce musical examples. The student is expected to:

(A) read, write, and reproduce rhythmic patterns using standard notation, including four sixteenth notes, whole notes, whole rests, and previously learned note values in 2/4 and 4/4 meters as appropriate;

(B) read, write, and reproduce extended pentatonic melodic patterns using standard staff notation; and

(C) identify new and previously learned music symbols and terms referring to tempo and dynamics, including mezzo piano and mezzo forte.

(3) Creative expression. The student performs a varied repertoire of developmentally appropriate music in informal or formal settings. The student is expected to:

(A) sing or play classroom instruments with accurate intonation and rhythm independently or in groups;

(B) sing or play a varied repertoire of music such as American folk songs and folk songs representative of local cultures independently or in groups;

(C) move alone or with others to a varied repertoire of music using gross motor, fine motor, locomotor, and non-locomotor skills and integrated movement such as hands and feet moving together;

(D) perform simple part work, including rhythmic and melodic ostinati, derived from known repertoire; and

(E) interpret through performance new and previously learned music symbols and terms referring to tempo and dynamics, including mezzo piano and mezzo forte.

(4) Creative expression. The student creates and explores new musical ideas within specified guidelines. The student is expected to:

(A) create rhythmic phrases through improvisation or composition;

(B) create melodic phrases through improvisation or composition; and

(C) create simple accompaniments through improvisation or composition.

(5) Historical and cultural relevance. The student examines music in relation to history and cultures. The student is expected to:

(A) perform a varied repertoire of songs, movement, and musical games representative of American and local cultures;

(B) identify music from diverse genres, styles, periods, and cultures; and

(C) identify the relationships between music and interdisciplinary concepts.

(6) Critical evaluation and response. The student listens to, responds to, and evaluates music and musical performances. The student is expected to:

(A) exhibit audience etiquette during live and recorded performances;

(B) recognize known rhythmic and melodic elements in aural examples using appropriate vocabulary;

(C) identify specific musical events in aural examples such as changes in timbre, form, tempo, or dynamics using appropriate vocabulary;

(D) respond verbally and through movement to short musical examples; and

(E) describe a variety of compositions and formal or informal musical performances using specific music vocabulary.

§117.113. Theatre, Grade 3, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry

and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) react to sensory and emotional experiences such as sight or sound and happiness or sadness through creative play;

(B) create playing space using expressive and rhythmic movement;

(C) respond to sounds, music, images, language, and literature using movement; and

(D) reflect the environment, portray character, and demonstrate actions in classroom dramatizations.

(2) Creative expression: performance. The student interprets characters using the voice and body expressively and creates dramatizations. The student is expected to:

(A) demonstrate safe use of movement and voice;

(B) participate in a variety of roles in real life or imaginative situations through narrative pantomime, dramatic play, or story dramatization;

(C) dramatize literary selections using shadow play or puppetry; and

(D) dramatize literary selections using pantomime and imitative dialogue.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) identify technical theatre elements such as props, costumes, sound, and visual elements that define character, environment, action, and theme;

(B) use simple technical theatre elements such as props, costumes, sound, and visual elements that define character, environment, action, and theme;

(C) plan dramatic play;

(D) cooperate and interact with others in dramatic play;

and

(E) observe live or multimedia theatrical performances.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) explore historical and diverse cultural influences from a variety of sources through dramatic activities;

(B) illustrate similarities and differences between life and theatre, television, and film through dramatic play; and

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) apply appropriate audience behavior consistently;

(B) discuss and evaluate simple dramatic activities and performances; and

(C) discuss the use of music, movement, and visual components in dramatic activities and performances.

§117.114. Art, Grade 4, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences, as sources for thinking about, planning, and creating original artworks. Students communicate their thoughts and ideas with innovation and creativity. Through art, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: observation and perception. The student develops and expands visual literacy skills using critical thinking, imagination, and the senses to observe and explore the world by learning about, understanding, and applying the elements of art, principles of design, and expressive qualities. The student uses what the student sees, knows, and has experienced as sources for examining, understanding, and creating artworks. The student is expected to:

(A) explore and communicate ideas drawn from life experiences about self, peers, family, school, or community and from the imagination as sources for original works of art;

(B) use appropriate vocabulary when discussing the elements of art, including line, shape, color, texture, form, space, and value, and the principles of design, including emphasis, repetition/pattern, movement/rhythm, contrast/variety, balance, proportion, and unity; and

(C) discuss the elements of art as building blocks and the principles of design as organizers of works of art.

(2) Creative expression. The student communicates ideas through original artworks using a variety of media with appropriate skills. The student expresses thoughts and ideas creatively while challenging the imagination, fostering reflective thinking, and developing

disciplined effort and progressive problem-solving skills. The student is expected to:

(A) integrate ideas drawn from life experiences to create original works of art;

(B) create compositions using the elements of art and principles of design; and

(C) produce drawings; paintings; prints; sculpture, including modeled forms; and other art forms such as ceramics, fiber art, constructions, mixed media, installation art, digital art and media, and photographic imagery using a variety of art media and materials.

(3) Historical and cultural relevance. The student demonstrates an understanding of art history and culture by analyzing artistic styles, historical periods, and a variety of cultures. The student develops global awareness and respect for the traditions and contributions of diverse cultures. The student is expected to:

(A) compare content in artworks for various purposes such as the role art plays in reflecting life, expressing emotions, telling stories, or documenting history and traditions;

(B) compare purpose and content in artworks created by historical and contemporary men and women, making connections to various cultures;

(C) connect art to career opportunities for positions such as architects, animators, cartoonists, engineers, fashion designers, film makers, graphic artists, illustrators, interior designers, photographers, and web designers; and

(D) investigate connections of visual art concepts to other disciplines.

(4) Critical evaluation and response. The student responds to and analyzes artworks of self and others, contributing to the development of lifelong skills of making informed judgments and reasoned evaluations. The student is expected to:

(A) evaluate the elements of art, principles of design, intent, or expressive qualities in artworks of self, peers, and historical and contemporary artists;

(B) use methods such as written or oral response or artist statements to identify emotions found in collections of artworks created by self, peers, and major historical or contemporary artists in real or virtual portfolios, galleries, or art museums; and

(C) compile collections of personal artworks for purposes of self-assessment or exhibition such as physical artworks, electronic images, sketchbooks, or portfolios.

§117.115. Music, Grade 4, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: music literacy, creative expression, historical and cultural relevance, and critical evalua-

tion and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to sing, play, read, write, and/or move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes musical sound. The student is expected to:

(A) categorize and explain a variety of musical sounds, including those of children's voices and soprano and alto adult voices;

(B) categorize and explain a variety of musical sounds, including those of woodwind, brass, string, percussion, keyboard, electronic instruments, and instruments of various cultures;

(C) use known music symbols and terminology referring to rhythm; melody; timbre; form; tempo; dynamics, including crescendo and decrescendo; and articulation, including staccato and legato, to explain musical sounds presented aurally; and

(D) identify and label small and large musical forms such as, abac, AB, ABA, and rondo presented aurally in simple songs and larger works.

(2) Foundations: music literacy. The student reads, writes, and reproduces music notation using a system. Technology and other tools may be used to read, write, and reproduce musical examples. The student is expected to:

(A) read, write, and reproduce rhythmic patterns using standard notation, including separated eighth notes, eighth- and sixteenth-note combinations, dotted half note, and previously learned note values in 2/4, 4/4, and 3/4 meters as appropriate;

(B) read, write, and reproduce extended pentatonic melodic patterns using standard staff notation; and

(C) identify new and previously learned music symbols and terms referring to tempo; dynamics, including crescendo and decrescendo; and articulation, including staccato and legato.

(3) Creative expression. The student performs a varied repertoire of developmentally appropriate music in informal or formal settings. The student is expected to:

(A) sing and play classroom instruments with accurate intonation and rhythm, independently or in groups;

(B) sing or play a varied repertoire of music such as American and Texan folk songs and folk songs representative of local cultures, independently or in groups;

(C) move alone and with others to a varied repertoire of music using gross motor, fine motor, locomotor, and non-locomotor skills and integrated movement such as hands and feet moving together;

(D) perform various folk dances and play parties;

(E) perform simple part work, including rhythmic and melodic ostinati, derived from known repertoire; and

(F) interpret through performance new and previously learned music symbols and terms referring to tempo; dynamics, including crescendo and decrescendo; and articulation, including staccato and legato.

(4) Creative expression. The student creates and explores new musical ideas within specified guidelines. The student is expected to:

(A) create rhythmic phrases through improvisation or composition;

(B) create melodic phrases through improvisation or composition; and

(C) create simple accompaniments through improvisation or composition.

(5) Historical and cultural relevance. The student examines music in relation to history and cultures. The student is expected to:

(A) perform a varied repertoire of songs, movement, and musical games representative of diverse cultures such as historical folk songs of Texas and Hispanic and American Indian cultures in Texas;

(B) perform music representative of America and Texas, including "Texas, Our Texas";

(C) identify and describe music from diverse genres, styles, periods, and cultures; and

(D) examine the relationships between music and interdisciplinary concepts.

(6) Critical evaluation and response. The student listens to, responds to, and evaluates music and musical performances. The student is expected to:

(A) exhibit audience etiquette during live and recorded performances;

(B) recognize known rhythmic and melodic elements in aural examples using appropriate vocabulary;

(C) describe specific musical events in aural examples such as changes in timbre, form, tempo, dynamics, or articulation using appropriate vocabulary;

(D) respond verbally and through movement to short musical examples;

(E) describe a variety of compositions and formal or informal musical performances using specific music vocabulary; and

(F) justify personal preferences for specific music works and styles using music vocabulary.

§117.116. Theatre, Grade 4, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic

and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) integrate sensory and emotional responses in dramatic play;

(B) develop body awareness and spatial perception using rhythmic and expressive movement;

(C) respond to sound, music, images, language, and literature with voice and movement and participate in dramatic play using actions, sounds, and dialogue;

(D) express emotions and ideas using interpretive movements, sounds, and dialogue;

(E) imitate and synthesize life experiences in dramatic play;

(F) use common objects to represent the setting, enhance characterization, and clarify actions; and

(G) define and demonstrate correct use of basic theatrical terms such as dialogue, character, scene, prop, costumes, setting, and theme.

(2) Creative expression: performance. The student interprets characters using the voice and body expressively and creates dramatizations. The student is expected to:

(A) demonstrate safe use of the voice and body;

(B) describe characters, their relationships, and their surroundings;

(C) develop characters and assume roles in short improvised scenes using imagination, personal experiences, heritage, literature, and history;

(D) dramatize literary selections in unison, pairs, or groups, demonstrating a logical connection of events and describing the characters, their relationships, and their surroundings; and

(E) create simple stories collaboratively through imaginative play, improvisations, and story dramatizations, demonstrating a logical connection of events and describing the characters, their relationships, and their surroundings.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) describe the appropriate use of props, costumes, sound, and visual elements that define character, environment, action, and theme;

(B) alter space to create suitable performance environments for playmaking;

(C) plan brief dramatizations collaboratively; and

(D) interact cooperatively with others in brief dramatizations.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) explain theatre as a reflection of life in particular times, places, cultures, and oral traditions specific to Texas;

(B) identify the role of live theatre, film, television, and electronic media in American society; and

(C) compare theatre artists and their contributions to theatre and society.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) apply appropriate audience behavior at formal and informal performances;

(B) compare visual, aural, oral, and kinetic aspects of informal playmaking with formal theatre; and

(C) discuss how movement, music, or visual elements enhance ideas and emotions depicted in theatre.

§117.117. Art, Grade 5, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences, as sources for thinking about, planning, and creating original artworks. Students communicate their thoughts and

ideas with innovation and creativity. Through art, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: observation and perception. The student develops and expands visual literacy skills using critical thinking, imagination, and the senses to observe and explore the world by learning about, understanding, and applying the elements of art, principles of design, and expressive qualities. The student uses what the student sees, knows, and has experienced as sources for examining, understanding, and creating artworks. The student is expected to:

(A) develop and communicate ideas drawn from life experiences about self, peers, family, school, or community and from the imagination as sources for original works of art;

(B) use appropriate vocabulary when discussing the elements of art, including line, shape, color, texture, form, space, and value, and the principles of design, including emphasis, repetition/pattern, movement/rhythm, contrast/variety, balance, proportion, and unity; and

(C) discuss the elements of art as building blocks and the principles of design as organizers of works of art.

(2) Creative expression. The student communicates ideas through original artworks using a variety of media with appropriate skills. The student expresses thoughts and ideas creatively while challenging the imagination, fostering reflective thinking, and developing disciplined effort and progressive problem-solving skills. The student is expected to:

(A) integrate ideas drawn from life experiences to create original works of art;

(B) create compositions using the elements of art and principles of design; and

(C) produce drawings; paintings; prints; sculpture, including modeled forms; and other art forms such as ceramics, fiber art, constructions, digital art and media, and photographic imagery using a variety of materials.

(3) Historical and cultural relevance. The student demonstrates an understanding of art history and culture by analyzing artistic styles, historical periods, and a variety of cultures. The student develops global awareness and respect for the traditions and contributions of diverse cultures. The student is expected to:

(A) compare the purpose and effectiveness of artworks from various times and places, evaluating the artist's use of media and techniques, expression of emotions, or use of symbols;

(B) compare the purpose and effectiveness of artworks created by historic and contemporary men and women, making connections to various cultures;

(C) connect art to career opportunities for positions such as architects, animators, cartoonists, engineers, fashion designers, film makers, graphic artists, illustrators, interior designers, photographers, and web designers; and

(D) investigate connections of visual art concepts to other disciplines.

(4) Critical evaluation and response. The student responds to and analyzes artworks of self and others, contributing to the development of lifelong skills of making informed judgments and reasoned evaluations. The student is expected to:

(A) evaluate the elements of art, principles of design, general intent, media and techniques, or expressive qualities in artworks of self, peers, or historical and contemporary artists;

(B) use methods such as written or oral response or artist statements to identify themes found in collections of artworks created by self, peers, and major historical or contemporary artists in real or virtual portfolios, galleries, or art museums; and

(C) compile collections of personal artworks for purposes of self-assessment or exhibition such as physical artworks, electronic images, sketchbooks, or portfolios.

§117.118. Music, Grade 5, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: music literacy, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to sing, play, read, write, and/or move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes musical sound. The student is expected to:

(A) distinguish among a variety of musical timbres, including those of children's voices and soprano, alto, tenor, and bass adult voices;

(B) distinguish among a variety of musical timbres, including those of woodwind, brass, string, percussion, keyboard, electronic instruments, and instruments of various cultures;

(C) use known music symbols and terminology referring to rhythm; melody; timbre; form; tempo, including *accelerando* and *ritardando*; dynamics; articulation; and meter, including simple and compound, to explain musical sounds presented aurally; and

(D) identify and label small and large musical forms such as abac, AB, and ABA; rondo; and theme and variations presented aurally in simple songs and larger works.

(2) Foundations: music literacy. The student reads, writes, and reproduces music notation using a system. Technology and other tools may be used to read, write, and reproduce musical examples. The student is expected to:

(A) read, write, and reproduce rhythmic patterns using standard notation, including syncopated patterns, and previously learned note values in 2/4, 3/4, or 4/4 meters as appropriate;

(B) read, write, and reproduce extended pentatonic and diatonic melodic patterns using standard staff notation; and

(C) identify and interpret new and previously learned music symbols and terms referring to tempo, including accelerando and ritardando; dynamics; articulation; and meter, including simple and compound.

(3) Creative expression. The student performs a varied repertoire of developmentally appropriate music in informal or formal settings. The student is expected to:

(A) sing and play classroom instruments independently or in groups with accurate intonation and rhythm;

(B) sing or play a varied repertoire of music such as American folk songs, patriotic music, and folk songs representative of local and world cultures independently or in groups;

(C) move alone and with others to a varied repertoire of music using gross motor, fine motor, locomotor, and non-locomotor skills and integrated movement such as hands and feet moving together;

(D) perform various folk dances and play parties;

(E) perform simple two-part music, including rhythmic and melodic ostinati, rounds, partner songs, and counter melodies; and

(F) interpret through performance new and previously learned music symbols and terms referring to tempo, including accelerando and ritardando; dynamics; articulation; and meter, including simple and compound.

(4) Creative expression. The student creates and explores new musical ideas within specified guidelines. The student is expected to:

(A) create rhythmic phrases through improvisation and composition;

(B) create melodic phrases through improvisation and composition; and

(C) create simple accompaniments through improvisation and composition.

(5) Historical and cultural relevance. The student examines music in relation to history and cultures. The student is expected to:

(A) perform a varied repertoire of songs, movement, and musical games representative of diverse cultures such as historical folk songs of Texas and America and European and African cultures in America;

(B) perform music representative of Texas and America, including "The Star Spangled Banner";

(C) identify and describe music from diverse genres, styles, periods, and cultures; and

(D) examine the relationships between music and interdisciplinary concepts.

(6) Critical evaluation and response. The student listens to, responds to, and evaluates music and musical performances. The student is expected to:

(A) exhibit audience etiquette during live and recorded performances;

(B) identify known rhythmic and melodic elements in aural examples using appropriate vocabulary;

(C) describe specific musical events such as changes in timbre, form, tempo, dynamics, or articulation in aural examples using appropriate vocabulary;

(D) respond verbally and through movement to short musical examples;

(E) evaluate a variety of compositions and formal or informal musical performances using specific criteria; and

(F) justify personal preferences for specific music works and styles using music vocabulary.

§117.119. Theatre, Grade 5, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) develop characterization using sensory and emotional recall;

(B) develop body awareness and spatial perceptions using pantomime;

(C) respond to sounds, music, images, language, and literature using movement;

(D) express emotions and relate ideas using interpretive and planned movement and dialogue;

(E) integrate life experiences in dramatic play;

(F) portray environment, character, and actions; and

(G) demonstrate correct use of basic theatrical terminology.

(2) Creative expression: performance. The student interprets characters using the voice and body expressively and creates dramatizations. The student is expected to:

(A) demonstrate safe use of the voice and body;

(B) describe characters, their relationships, and their surroundings in detail;

(C) create movements and portray a character using dialogue appropriately;

(D) dramatize literary selections in unison, pairs, or groups, demonstrating a logical connection of events and describing the characters, their relationships, and their surroundings; and

(E) create simple stories collaboratively through imaginative play, improvisations, and story dramatizations, demonstrating a logical connection of events describing the characters, their relationships, and their surroundings.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) demonstrate character, environment, action, and theme using props, costumes, and visual elements;

(B) alter space appropriately to create suitable performance environments for playmaking;

(C) plan dramatizations collaboratively; and

(D) interact cooperatively with others in dramatizations.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) explain theatre as a reflection of life in particular times, places, cultures, and oral traditions specific to American history;

(B) examine the role of live theatre, film, television, or electronic media throughout American history; and

(C) analyze and compare theatre artists and their contributions to theatre and society.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) analyze and apply appropriate audience behavior at a variety of performances;

(B) compare visual, aural, oral, and kinetic aspects of informal and formal theatre with the elements of art, dance, or music; and

(C) identify and discuss how movement, music, or visual elements enhance ideas and emotions depicted in theatre.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 475-1497



SUBCHAPTER E. MIDDLE SCHOOL

19 TAC §§117.201 - 117.213

The new sections are proposed under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements, and §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials.

The new sections implement the Texas Education Code, §7.102(c)(4) and §28.002.

§117.201. Implementation of Texas Essential Knowledge and Skills for Fine Arts, Middle School, Adopted 2013.

(a) The provisions of §§117.201-117.213 of this subchapter shall be implemented by school districts.

(b) No later than August 31, 2014, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for fine arts as adopted in §§117.201-117.213 of this subchapter.

(c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §§117.201-117.213 of this subchapter shall be implemented beginning with the 2015-2016 school year and apply to the 2015-2016 and subsequent school years.

(d) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (b) of this section, the commissioner shall determine no later than August 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §§117.201-117.213 of this subchapter shall be implemented for the following school year.

(e) Sections 117.31-117.40 of this chapter shall be superseded by the implementation of §§117.201-117.213 under this section.

§117.202. Art, Middle School 1, Adopted 2013.

(a) General requirements. Students in Grades 6, 7, or 8 enrolled in the first year of art may select Art, Middle School 1.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences, as sources for thinking about, planning, and creating original artworks. Students communicate their thoughts and ideas with innovation and creativity. Through art, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: observation and perception. The student develops and expands visual literacy skills using critical thinking, imagination, and the senses to observe and explore the world by learning about, understanding, and applying the elements of art, principles of design, and expressive qualities. The student uses what the student sees, knows, and has experienced as sources for examining, understanding, and creating original artworks. The student is expected to:

(A) identify and illustrate concepts from direct observation, original sources, personal experiences, and communities such as family, school, cultural, local, regional, national, and international;

(B) understand and apply the elements of art, including line, shape, color, texture, form, space, and value, as the fundamentals of art in personal artworks using art vocabulary appropriately;

(C) understand and apply the principles of design, including emphasis, repetition/pattern, movement/rhythm, contrast/variety, balance, proportion, and unity, in personal artworks using art vocabulary appropriately; and

(D) discuss the expressive properties of artworks such as appropriation, meaning, narrative, message, and symbol using art vocabulary accurately.

(2) Creative expression. The student communicates ideas through original artworks using a variety of media with appropriate skills. The student expresses thoughts and ideas creatively while challenging the imagination, fostering reflective thinking, and developing

disciplined effort and progressive problem-solving skills. The student is expected to:

(A) create original artworks based on direct observations, original sources, personal experiences, and the community;

(B) apply the art-making process to solve problems and generate design solutions; and

(C) produce artworks, including drawings, paintings, prints, sculptures/modeled forms, ceramics, fiber art, photographic imagery, and digital art and media, using a variety of materials.

(3) Historical and cultural relevance. The student demonstrates an understanding of art history and culture by analyzing artistic styles, historical periods, and a variety of cultures. The student develops global awareness and respect for the traditions and contributions of diverse cultures. The student is expected to:

(A) identify the influence of historical and political events in artworks;

(B) identify examples of art that convey universal themes such as beliefs, cultural narrative, life cycles, the passage of time, identity, conflict, and cooperation;

(C) explain the relationships that exist between societies and their art and architecture; and

(D) explore career and avocational opportunities in art such as various design, museum, and fine arts fields.

(4) Critical evaluation and response. The student responds to and analyzes artworks of self and others, contributing to the development of the lifelong skills of making informed judgments and reasoned evaluations. The student is expected to:

(A) create written or oral responses to artwork using appropriate art vocabulary;

(B) analyze original artworks using a method of critique such as describing the artwork, analyzing the way it is organized, interpreting the artist's intention, and evaluating the success of the artwork;

(C) develop a portfolio;

(D) investigate and explore original artworks in a variety of venues outside of the classroom such as museums, galleries, or community art; and

(E) understand and demonstrate proper exhibition etiquette.

§117.203. Art, Middle School 2, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to

acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences, as sources for thinking about, planning, and creating original artworks. Students communicate their thoughts and ideas with innovation and creativity. Through art, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: observation and perception. The student develops and expands visual literacy skills using critical thinking, imagination, and the senses to observe and explore the world by learning about, understanding, and applying the elements of art, principles of design, and expressive qualities. The student uses what the student sees, knows, and has experienced as sources for examining, understanding, and creating original artworks. The student is expected to:

(A) identify and illustrate ideas from direct observation, original sources, imagination, personal experiences, and communities such as family, school, cultural, local, regional, national, and international;

(B) compare and contrast the elements of art, including line, shape, color, texture, form, space, and value, as the fundamentals of art in personal artworks using vocabulary accurately;

(C) compare and contrast the principles of design, including emphasis, repetition/pattern, movement/rhythm, contrast/variety, balance, proportion, and unity, in personal artworks using vocabulary accurately; and

(D) understand and apply the expressive properties of artworks such as appropriation, meaning, narrative, message, and symbol using art vocabulary accurately.

(2) Creative expression. The student communicates ideas through original artworks using a variety of media with appropriate skills. The student expresses thoughts and ideas creatively while challenging the imagination, fostering reflective thinking, and developing disciplined effort and progressive problem-solving skills. The student is expected to:

(A) create original artworks that express a variety of ideas based on direct observations, original sources, and personal experiences, including memory, identity, imagination, and the community;

(B) apply the art-making process to solve problems and generate design solutions;

(C) apply technical skills effectively using a variety of materials to produce artworks, including drawings, paintings, prints, sculptures/modeled forms, ceramics, fiber art, photographic imagery, and digital art and media; and

(D) use an understanding of copyright and public domain to appropriate imagery when working from sources rather than direct observation or imagination.

(3) Historical and cultural relevance. The student demonstrates an understanding of art history and culture by analyzing artistic styles, historical periods, and a variety of cultures. The student devel-

ops global awareness and respect for the traditions and contributions of diverse cultures. The student is expected to:

(A) analyze ways that global, cultural, historical, and political issues influence artworks;

(B) analyze selected artworks to determine contemporary relevance in relationship to universal themes such as belief, cultural narrative, life cycles, the passage of time, identity, conflict, and cooperation;

(C) compare and contrast relationships that exist between a society's art and its music, literature, and architecture; and

(D) identify career and avocational choices in art such as various design, museum, and fine arts fields.

(4) Critical evaluation and response. The student responds to and analyzes artworks of self and others, contributing to the development of the lifelong skills of making informed judgments and reasoned evaluations. The student is expected to:

(A) create written or oral responses about personal or collaborative artworks addressing purpose, technique, organization, judgment, and personal expression;

(B) analyze original artworks using a method of critique such as describing the artwork, analyzing the way it is organized, interpreting the artist's intention, and evaluating the success of the artwork;

(C) develop a portfolio that demonstrates progress;

(D) investigate and explore original artworks in a variety of venues outside of the classroom such as museums, galleries, or community art; and

(E) demonstrate an understanding of and apply proper exhibition etiquette.

§117.204. Art, Middle School 3, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences, as sources for thinking about, planning, and creating original artworks. Students communicate their thoughts and ideas with innovation and creativity. Through art, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: observation and perception. The student develops and expands visual literacy skills using critical thinking, imagination, and the senses to observe and explore the world by learning about, understanding, and applying the elements of art, principles of design, and expressive qualities. The student uses what the student sees, knows, and has experienced as sources for examining, understanding, and creating original artworks. The student is expected to:

(A) identify and illustrate concepts from direct observation, original sources, imagination, personal experience, and communities such as family, school, cultural, local, regional, national, and international;

(B) evaluate the elements of art, including line, shape, color, texture, form, space, and value, as the fundamentals of art in personal artworks using vocabulary accurately;

(C) evaluate the principles of design, including emphasis, repetition/pattern, movement/rhythm, contrast/variety, balance, proportion, and unity, in personal artworks using vocabulary accurately; and

(D) compare and contrast the expressive properties of artworks, including appropriation, meaning, narrative, message, and symbol, using vocabulary accurately.

(2) Creative expression. The student communicates ideas through original artworks using a variety of media with appropriate skills. The student expresses thoughts and ideas creatively while challenging the imagination, fostering reflective thinking, and developing disciplined effort and progressive problem-solving skills. The student is expected to:

(A) create original artworks expressing themes found through direct observation; original sources; personal experiences, including memory, identity, and imagination; and the community;

(B) apply the art-making process to solve problems and generate design solutions;

(C) create artworks by selecting appropriate art materials, including drawings, paintings, prints, sculptures/modeled forms, ceramics, fiber art, photographic imagery, and digital art and media;

(D) use an understanding of copyright and public domain to appropriate imagery when working from sources rather than direct observation or imagination; and

(E) create experimental artworks using installation, performance, or collaboration.

(3) Historical and cultural relevance. The student demonstrates an understanding of art history and culture by analyzing artistic styles, historical periods, and a variety of cultures. The student develops global awareness and respect for the traditions and contributions of diverse cultures. The student is expected to:

(A) analyze ways in which global, contemporary, historical, and political issues have influenced art;

(B) analyze cultural ideas expressed in artworks relating to social, political, and environmental themes such as environment/nature, conflict and power, relationships to others, and reality/fantasy;

(C) evaluate the relationships that exist among a society's art, music, theatre, and dance; and

(D) compare and contrast career and avocational opportunities in art such as various design, museum, and fine arts fields.

(4) Critical evaluation and response. The student responds to and analyzes artworks of self and others, contributing to the development of the lifelong skills of making informed judgments and reasoned evaluations. The student is expected to:

(A) create written and oral responses about personal or collaborative artworks addressing purpose, technique, organization, judgment, and personal expression;

(B) analyze original artworks and portfolios using a method of critique such as describing the artwork, analyzing the way it is organized, interpreting the artist's intention, and evaluating the success of the artwork;

(C) investigate and explore original artworks in a variety of venues outside of the classroom such as museums, galleries, or community art; and

(D) understand and demonstrate proper exhibition etiquette.

§117.205. Dance, Middle School 1, Adopted 2013.

(a) General requirements. Students in Grades 6, 7, or 8 enrolled in the first year of dance may select Dance, Middle School 1.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Dance students develop perceptual thinking and movement abilities in daily life, promoting an understanding of themselves and others. Students develop movement principles and technical skills and explore choreographic and performance qualities. Students develop self-discipline and healthy bodies that move expressively, efficiently, and safely through space and time with a sensitive kinesthetic awareness. Students recognize dance as a vehicle for understanding historical and cultural relevance, increasing an awareness of their heritage and traditions and those of others, and enabling them to participate in a diverse society. Evaluating and analyzing dance allows students to strengthen decision-making skills, develop critical and creative thinking, and develop artistic creative processes. Students continue to explore technology and its application to dance and movement, enabling them to make informed decisions about dance.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: perception. The student develops an awareness of the body's movement using sensory information while dancing. The student is expected to:

(A) demonstrate basic kinesthetic and spatial awareness individually and in groups;

(B) recognize the concepts of wellness for healthy lifestyles;

(C) define body science applications through dance genres, styles, and vocabulary; and

(D) identify dance movement elements through space, energy, and time.

(2) Creative expression: artistic process. The student develops knowledge and skills of dance elements, choreographic processes, and forms in a variety of dance genres and styles. The student is expected to:

(A) recognize basic principles of proper body alignment;

(B) define knowledge of dance composition elements, improvisation skills, and choreographic processes;

(C) identify movement studies using rhythmical skills and spatial directions; and

(D) recognize expressions of ideas or emotions individually and in groups.

(3) Creative expression: performance. The student develops knowledge and execution of technical dance skills and a variety of dance genres and styles through performing. The student is expected to:

(A) identify various dance genres and styles such as ballet, jazz, tap, modern dance, musical theatre dance, and world dance forms;

(B) perform in groups with the intent to communicate to an audience;

(C) define the use of dance elements in practice and performance incorporating technology; and

(D) identify an effective warm-up and cool-down using elements of proper conditioning for performing skills.

(4) Historical and cultural relevance. The student demonstrates an understanding of cultural, historical, and artistic diversity. The student is expected to:

(A) define the cultural significance as communicated through dance movement, identifying historical figures and their contributions to dance history;

(B) identify movement characteristics of historical and cultural dance forms and the contributions of their artists;

(C) identify a dance representative of one's heritage or environment; and

(D) understand dances in various media and other content areas.

(5) Critical evaluation and response. The student makes informed personal judgments about dance and the meaning and role of dance in society. The student is expected to:

(A) define the quality and effectiveness of dance performances while incorporating appropriate etiquette in the classroom and performances;

(B) identify relationships between dance and other content subjects;

(C) define the content and choreographic structures used by various American choreographers; and

(D) define artistic decisions of personal dance works.

§117.206. Dance, Middle School 2, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Dance students develop perceptual thinking and movement abilities in daily life, promoting an understanding of themselves and others. Students develop movement principles and technical skills and explore choreographic and performance qualities. Students develop self-discipline and healthy bodies that move expressively, efficiently, and safely through space and time with a sensitive kinesthetic awareness. Students recognize dance as a vehicle for understanding historical and cultural relevance, increasing an awareness of their heritage and traditions and those of others, and enabling them to participate in a diverse society. Evaluating and analyzing dance allows students to strengthen decision-making skills, develop critical and creative thinking, and develop artistic creative processes. Students continue to explore technology and its application to dance and movement, enabling them to make informed decisions about dance.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: perception. The student develops an awareness of the body's movement using sensory information while dancing. The student is expected to:

(A) demonstrate basic kinesthetic and spatial awareness individually and in groups;

(B) identify the concepts of wellness for healthy lifestyles;

(C) demonstrate body science applications through dance genres, styles, and vocabulary; and

(D) explore and demonstrate dance movement elements through space, energy, and time.

(2) Creative expression: artistic process. The student develops knowledge and skills of dance elements, choreographic processes, and forms in a variety of dance genres and styles. The student is expected to:

(A) identify basic principles of proper body alignment;

(B) explore and describe knowledge of dance composition elements, improvisation skills, and choreographic processes;

(C) distinguish between movement studies using rhythmical skills and spatial directions; and

(D) explore and demonstrate expressions of ideas or emotions individually and in groups.

(3) Creative expression: performance. The student develops knowledge and execution of technical dance skills and a variety of dance genres and styles through performing. The student is expected to:

(A) explore and demonstrate various dance genres and styles such as ballet, jazz, tap, modern dance, musical theatre dance, and world dance forms;

(B) perform individually and in groups with the intent to communicate and project to an audience;

(C) demonstrate the use of dance elements in practice and performance incorporating technology; and

(D) demonstrate an effective warm-up and cool-down using elements of proper conditioning for performing skills.

(4) Historical and cultural relevance. The student demonstrates an understanding of cultural, historical, and artistic diversity. The student is expected to:

(A) recognize the cultural significance as communicated through dance movement, identifying historical figures and their contributions to dance history;

(B) interpret movement characteristics of historical and cultural dance forms and the contributions of their artists;

(C) recognize a dance representative of one's heritage or environment; and

(D) evaluate dance in various media and other content areas.

(5) Critical evaluation and response. The student makes informed personal judgments about dance and the meaning and role of dance in society. The student is expected to:

(A) demonstrate the quality and effectiveness of dance performances while incorporating appropriate etiquette in the classroom and performances;

(B) interpret relationships between dance and other content subjects;

(C) demonstrate the content and choreographic structures used by various American choreographers; and

(D) interpret and evaluate artistic decisions of personal dance works.

§117.207. Dance, Middle School 3, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic

and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Dance students develop perceptual thinking and movement abilities in daily life, promoting an understanding of themselves and others. Students develop movement principles and technical skills and explore choreographic and performance qualities. Students develop self-discipline and healthy bodies that move expressively, efficiently, and safely through space and time with a sensitive kinesthetic awareness. Students recognize dance as a vehicle for understanding historical and cultural relevance, increasing an awareness of their heritage and traditions and those of others, and enabling them to participate in a diverse society. Evaluating and analyzing dance allows students to strengthen decision-making skills, develop critical and creative thinking, and develop artistic creative processes. Students continue to explore technology and its application to dance and movement, enabling them to make informed decisions about dance.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: perception. The student develops an awareness of the body's movement using sensory information while dancing. The student is expected to:

(A) demonstrate basic kinesthetic and spatial awareness individually and in groups;

(B) distinguish between concepts of wellness for healthy lifestyles;

(C) implement body science applications through dance genres, styles, and vocabulary; and

(D) develop dance movement elements through space, energy, and time.

(2) Creative expression: artistic process. The student develops knowledge and skills of dance elements, choreographic processes, and forms in a variety of dance genres and styles. The student is expected to:

(A) apply basic principles of proper body alignment;

(B) demonstrate knowledge of dance composition elements, improvisation skills, and choreographic processes;

(C) create movement studies using rhythmical skills and spatial directions; and

(D) design and demonstrate expressions of ideas or emotions individually and in groups.

(3) Creative expression: performance. The student develops knowledge and execution of technical dance skills and a variety of dance genres and styles through performing. The student is expected to:

(A) apply various dance genres and styles such as ballet, jazz, tap, modern dance, musical theatre dance, and world dance forms;

(B) perform individually and in groups with the intent to express emotions, communicate, and project to an audience;

(C) evaluate the use of dance elements in practice and performance incorporating technology and elements of dance production; and

(D) practice an effective warm-up and cool-down using elements of proper conditioning for performing skills.

(4) Historical and cultural relevance. The student demonstrates an understanding of cultural, historical, and artistic diversity. The student is expected to:

(A) compare and contrast the cultural significance as communicated through dance movement, identifying historical figures and their contributions to dance history;

(B) evaluate movement characteristics of historical and cultural dance forms and the contributions of their artists;

(C) perform a dance representing one's heritage or environment; and

(D) create dances in various media and other content areas.

(5) Critical evaluation and response. The student makes informed personal judgments about dance and the meaning and role of dance in society. The student is expected to:

(A) design and apply criteria for evaluating the quality and effectiveness of dance performances while incorporating appropriate etiquette in the classroom and performances;

(B) create relationships between dance and other content subjects;

(C) compare and contrast the content and choreographic structures used by various American choreographers; and

(D) interpret, evaluate, and justify artistic decisions of personal dance works.

§117.208. Music, Middle School 1, Adopted 2013.

(a) General requirements. Students in Grades 6, 7, or 8 enrolled in the first year of music may select from the following courses: General Music 6, Middle School 1 Band, Middle School 1 Choir, Middle School 1 Orchestra, Middle School 1 Instrumental Ensemble, or Middle School 1 Vocal Ensemble.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to sing, play, read, write, and/or

move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes music and musical sound. The student explores fundamental skills appropriate for a developing young musician. The student is expected to:

(A) experience and explore exemplary musical examples using technology and available live performances;

(B) describe tonal and rhythmic musical elements using standard terminology such as instrumentation, voicing, intervals, solfege, absolute note names, rhythmic values, and counting systems;

(C) describe musical elements of rhythm, including whole notes, half notes, quarter notes, paired and single eighth notes, sixteenth notes, corresponding rests, and meter, including 2/4, 3/4, and 4/4, using standard terminology;

(D) identify musical forms presented aurally and through music notation such as binary, ternary, phrasic, rondo, and theme and variations; and

(E) explore health and wellness concepts related to musical practice such as body mechanics, hearing protection, vocal health, hydration, and appropriate hygienic practice.

(2) Foundations: music literacy. The student reads and writes music notation using an established system for rhythm and melody. The student is expected to:

(A) identify music symbols and terms referring to notation, including repeat sign; dynamics, including crescendo, decrescendo, piano, and forte; tempi, including accelerando, ritardando, moderato, and allegro; and articulations, including staccato and legato;

(B) notate meter, rhythm, pitch, and dynamics using standard symbols in a handwritten or computer-generated format;

(C) create rhythmic phrases using known rhythms and melodic phrases using known pitches at an appropriate level of difficulty within an established system of notation;

(D) read music notation using appropriate cognitive and kinesthetic responses such as inner hearing, silent fingering, shadow bowing, or Curwen hand signs; and

(E) sight read unison and homophonic music using the appropriate clef in a minimum of two keys and three meters, including 2/4, 3/4, and 4/4.

(3) Creative expression. The student demonstrates musical artistry by singing or playing an instrument, alone and in groups, performing a variety of unison, homophonic, and polyphonic repertoire. The student makes music at an appropriate level of difficulty and performs in a variety of genres from notation and by memory. The student is expected to:

(A) demonstrate, alone and in groups, characteristic vocal or instrumental timbre;

(B) perform music alone and in groups, demonstrating appropriate physical fundamental techniques such as hand position, bowing, embouchure, articulation, and posture;

(C) perform independently and expressively, with accurate intonation and rhythm, developing fundamental skills and appropriate solo, small ensemble, and large ensemble performance techniques;

(D) perform independently and expressively a varied repertoire of music representing various styles and cultures;

(E) sight-read independently and expressively, with accurate intonation and rhythm, demonstrating fundamental skills and appropriate solo, small ensemble, and large ensemble performance techniques in known keys and rhythms;

(F) interpret music symbols and terms referring to keys; clefs; dynamics, including crescendo, decrescendo, piano, and forte; tempi, including accelerando and ritardando; and articulations, including staccato and legato, appropriately when performing; and

(G) create rhythmic phrases using known rhythms and melodic phrases using known pitches at an appropriate level of difficulty.

(4) Historical and cultural relevance. The student relates music to history, culture, and the world. The student is expected to:

(A) perform music representative of diverse cultures, including American and Texas heritage;

(B) describe written and aurally presented music representative of diverse styles, periods, and cultures;

(C) identify relationships of music concepts to other academic disciplines such as the relationship between music and mathematics, literature, history, and the sciences; and

(D) describe music-related vocations and avocations.

(5) Critical evaluation and response. The student listens to, responds to, and evaluates music and musical performance in both formal and informal settings. The student is expected to:

(A) demonstrate appropriate concert and stage etiquette as an informed, actively involved listener and performer during live and recorded performances in a variety of settings;

(B) identify criteria for listening to and evaluating musical performances;

(C) describe processes and select the tools for self-evaluation and personal artistic improvement such as critical listening and individual and group performance recordings;

(D) evaluate the quality and effectiveness of musical performances by comparing them to exemplary models; and

(E) demonstrate appropriate cognitive and kinesthetic responses to music and musical performances.

§117.209. Music, Middle School 2, Adopted 2013.

(a) General requirements. Students enrolled in the second year of music may select from the following courses: Middle School 2 Band, Middle School 2 Choir, Middle School 2 Orchestra, Middle School 2 Instrumental Ensemble, or Middle School 2 Vocal Ensemble.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines

engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to sing, play, read, write, and/or move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes music and musical sound. The student explores fundamental skills appropriate for a developing young musician. The student is expected to:

(A) compare and contrast exemplary musical examples using technology and available live performances;

(B) demonstrate knowledge of tonal and rhythmic musical elements using standard terminology such as instrumentation, voicing, intervals, solfege, absolute note names, rhythmic values, and counting systems;

(C) demonstrate knowledge of musical elements of rhythm, including whole notes, half notes, quarter notes, paired and single eighth notes, sixteenth notes, syncopated patterns, corresponding rests, and meter, including 2/4, 3/4, 4/4, and 6/8, using standard terminology;

(D) interpret musical forms such as binary, ternary, phrasic, rondo, and theme and variations presented aurally and through music notation; and

(E) describe health and wellness concepts related to musical practice such as body mechanics, hearing protection, vocal health, hydration, and appropriate hygienic practice.

(2) Foundations: music literacy. The student reads and writes music notation using an established system for rhythm and melody. The student is expected to:

(A) interpret music symbols and terms referring to notation, including fermata and coda; dynamics, including pianissimo to fortissimo; tempi, including andante, largo and adagio; and articulations, including accent, marcato, and previously known elements;

(B) notate meter, rhythm, pitch, and dynamics using standard symbols in a handwritten or computer-generated format;

(C) create increasingly complex rhythmic phrases, using known rhythms, and melodic phrases, using known pitches, within an established system of notation;

(D) read music notation using appropriate cognitive and kinesthetic responses such as inner hearing, silent fingering, shadow bowing, or Curwen hand signs; and

(E) sight-read unison, homophonic, and polyphonic music using the appropriate clef in a minimum of three keys and three meters, including 2/4, 3/4, and 4/4.

(3) Creative expression. The student demonstrates musical artistry by singing or playing an instrument, alone and in groups, performing a variety of unison, homophonic, and polyphonic repertoire. The student makes music at an appropriate level of difficulty and performs in a variety of genres from notation and by memory. The student is expected to:

(A) demonstrate, alone and in groups, characteristic vocal or instrumental timbre;

(B) perform music, alone and in groups, demonstrating appropriate physical fundamental techniques such as hand position, bowing, embouchure, articulation, and posture;

(C) perform independently and expressively, with accurate intonation and rhythm, demonstrating fundamental skills and appropriate solo, small ensemble, and large ensemble performance techniques;

(D) perform independently and expressively a varied repertoire of music representing various styles and cultures;

(E) sight-read independently and expressively, with accurate intonation and rhythm, demonstrating fundamental skills and appropriate solo, small ensemble, and large ensemble performance techniques in known keys and rhythms;

(F) interpret music symbols and terms referring to previously known elements; notation, including fermata and coda; keys; clefs; dynamics, including pianissimo to fortissimo; tempi, including andante, largo, and adagio; and articulations, including accent and marcato, appropriately when performing; and

(G) create increasingly complex rhythmic phrases using known rhythms and melodic phrases using known pitches at an appropriate level of difficulty.

(4) Historical and cultural relevance. The student relates music to history, culture, and the world. The student is expected to:

(A) perform music such as "The Star-Spangled Banner" and "Texas, Our Texas" that is representative of diverse cultures, including American and Texas heritage;

(B) examine written and aurally presented music representative of diverse genres, styles, periods, and cultures;

(C) identify relationships of music content and processes to other academic disciplines such as the relationship between music and mathematics, literature, history, and the sciences; and

(D) describe music-related vocations and avocations.

(5) Critical evaluation and response. The student listens to, responds to, and evaluates music and musical performance in both formal and informal settings. The student is expected to:

(A) demonstrate appropriate concert and stage etiquette as an informed, actively involved listener and performer during live and recorded performances in a variety of settings;

(B) apply criteria for listening to and evaluating musical performances;

(C) demonstrate processes and select the tools for self-evaluation and personal artistic improvement such as critical listening to individual and group performance recordings;

(D) identify and apply criteria for evaluating personal performances;

(E) evaluate the quality and effectiveness of musical performances by comparing them to exemplary models; and

(F) demonstrate appropriate cognitive and kinesthetic responses to music and musical performances.

§117.210. Music, Middle School 3, Adopted 2013.

(a) General requirements. Students enrolled in the third year of music may select from the following courses: Middle School 3 Band, Middle School 3 Choir, Middle School 3 Orchestra, Middle School 3 Instrumental Ensemble, or Middle School 3 Vocal Ensemble.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to sing, play, read, write, and/or move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes music and musical sound. The student demonstrates fundamental skills appropriate for a developing young musician. The student is expected to:

(A) compare and contrast exemplary musical examples using technology and available live performances;

(B) demonstrate detailed knowledge of tonal and rhythmic musical elements using standard terminology such as instrumentation, voicing, intervals, solfege, absolute note names, rhythmic values, and counting systems;

(C) demonstrate knowledge of musical elements of rhythm, including whole notes, half notes, quarter notes, paired and single eighth notes, sixteenth notes, syncopated patterns and corresponding rests, and varied meters, using standard terminology;

(D) analyze musical forms presented aurally and through music notation such as binary, ternary, phrasic, rondo, and theme and variations; and

(E) demonstrate health and wellness concepts related to musical practice such as hand positions, hearing protection, vocal health, hydration, and appropriate hygienic practice.

(2) Foundations: music literacy. The student reads and writes music notation using an established system for rhythm and melody. The student is expected to:

(A) analyze music symbols and terms referring to notation; dynamics; tempi, including largo to presto; articulations, including sforzando; and previously known elements;

(B) notate meter, rhythm, pitch, and dynamics using standard symbols in a handwritten or computer-generated format;

(C) create complex rhythmic phrases, using known rhythms, and complex melodic phrases, using known pitches, within an established system of notation;

(D) read music notation using appropriate cognitive and kinesthetic responses such as inner hearing, silent fingering, shadow bowing, or Curwen hand signs; and

(E) sight-read unison, homophonic, and polyphonic music using the appropriate clef in a variety of keys and meters.

(3) Creative expression. The student demonstrates musical artistry by singing or playing an instrument, alone and in groups, performing a variety of unison, homophonic, and polyphonic repertoire. The student makes music at an appropriate level of difficulty and performs in a variety of genres from notation and by memory. The student is expected to:

(A) model, alone and in groups, characteristic vocal or instrumental timbre;

(B) perform music alone and in groups, demonstrating appropriate physical fundamental techniques such as hand position, bowing, embouchure, articulation, and posture;

(C) perform independently and expressively, with accurate intonation and rhythm, demonstrating fundamental skills and appropriate solo, small ensemble, and large ensemble performance techniques;

(D) perform independently and expressively a varied repertoire of music representing various styles and cultures;

(E) sight-read independently and expressively, with accurate intonation and rhythm, demonstrating fundamental skills and appropriate solo, small ensemble, and large ensemble performance techniques in known keys and rhythms;

(F) interpret a variety of music symbols and terms, incorporating appropriate stylistic qualities when performing, including sforzando, largo to presto, and previously known elements; and

(G) create complex rhythmic phrases using known rhythms and complex melodic phrases using known pitches at an appropriate level of difficulty.

(4) Historical and cultural relevance. The student relates music to history, culture, and the world. The student is expected to:

(A) perform music such as "The Star-Spangled Banner" and "Texas, Our Texas" that is representative of diverse cultures, including American and Texas heritage;

(B) compare and contrast written and aurally presented music representative of diverse genres, styles, periods, and cultures;

(C) compare and contrast relationships of music content and processes to other academic disciplines such as the relationship between music and mathematics, literature, history, sciences, and language; and

(D) describe music-related vocations and avocations.

(5) Critical evaluation and response. The student listens to, responds to, and evaluates music and musical performance in both formal and informal settings. The student is expected to:

(A) model appropriate concert and stage etiquette as an informed, actively involved listener and performer during live and recorded performances in a variety of settings;

(B) apply criteria for listening to and evaluating musical performances;

(C) demonstrate processes and apply the tools for self-evaluation and personal artistic improvement such as critical listening to individual and group performance recordings;

(D) apply criteria for listening to and evaluating personal performances;

(E) evaluate the quality and effectiveness of musical performances by comparing them to exemplary models and offer constructive suggestions for improvement; and

(F) demonstrate appropriate cognitive and kinesthetic responses to music and musical performances.

§117.211. Theatre, Middle School 1, Adopted 2013.

(a) General requirements. When Theatre, Middle School 1 is part of a departmentalized middle school, students may select the following theatre course: Theatre, Middle School 1.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and

the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) develop characterization based on sensory and emotional recall;

(B) expand body awareness and spatial perceptions using mime;

(C) respond to sounds, music, images, and the written word, incorporating movement;

(D) develop an understanding of the mechanisms of vocal production;

(E) identify theatrical vocabulary and terminology, including basic anatomy of theatre spaces; and

(F) identify the structure and form in examples of dramatic literature.

(2) Creative expression: performance. The student interprets characters using the voice and body expressively and creates dramatizations. The student is expected to:

(A) demonstrate safe use of the voice and body;

(B) imagine and clearly describe characters, their relationships, and their surroundings;

(C) select movements and dialogue to appropriately portray an imaginative character drawn from personal experience, cultural heritage, literature, and history;

(D) dramatize literary selections and imitate life experiences through dramatic play;

(E) express emotions and ideas using interpretive movements and dialogue; and

(F) create environments, characters, and actions.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) create character, environment, action, and theme collaboratively through the safe use of props, costumes, and visual elements;

(B) create suitable environments for dramatizations;

(C) collaborate to plan brief dramatizations; and

(D) use technology in theatrical applications such as live theatre, video, and film.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) demonstrate the role of theatre as a reflection of history, society, and culture through participation in dramatic activities; and

(B) explore the influences of theatre, film, television, and electronic media such as key developments, figures, and works in society.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) identify and apply audience etiquette at all performances;

(B) develop simple oral and written observations about the visual, aural, oral, and kinetic aspects of theatrical performances such as informal playmaking or formal theatre;

(C) identify production elements of theatre, film, television, and other media; and

(D) examine selected occupations in theatre such as director, stage manager, actor, designer, running crew, front of house, and educator.

§117.212. Theatre, Middle School 2, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) explore characterization using sensory and emotional recall;

(B) develop and apply theatre preparation and warm-up techniques;

(C) create expressive and rhythmic movements;

(D) develop an increased understanding of the mechanisms of vocal production;

(E) demonstrate knowledge of theatrical vocabulary and terminology; and

(F) analyze and evaluate the structure and form of dramatic literature.

(2) Creative expression: performance. The student interprets characters using the voice and body expressively and creates dramatizations. The student is expected to:

(A) demonstrate safe use of the voice and body;

(B) define characters by what they do, what they say, and what others say about them;

(C) select movements and dialogue to portray a character appropriately;

(D) create stories collaboratively and individually that have dramatic structure;

(E) apply knowledge of effective voice and diction techniques to express thoughts and feelings;

(F) compare and contrast dramatic performances to life; and

(G) create improvised scenes that include setting, character, and plot.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) determine specific technical elements to provide a safe setting and to support character and action in improvised and scripted scenes;

(B) create theatrical elements such as scenery, properties, lighting, sound, costume, makeup, and publicity appropriate to specific performances;

(C) define the role of the director; and

(D) use technology in theatrical applications such as live theatre, video, and film.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) demonstrate knowledge of theatre as a reflection of life in particular times, places, and cultures;

(B) explore the relevance and influence of theatre heritage and dramatic texts on the student's daily life; and

(C) explore the roles of theatre, film, television, and electronic media such as key developments, figures, and works on American society.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) understand and demonstrate appropriate audience etiquette at various types of performances;

(B) evaluate the effectiveness of selected film and television performances;

(C) demonstrate knowledge of production elements in theatre, film, television, and other media; and

(D) explore career and vocational opportunities in theatre.

§117.213. Theatre, Middle School 3, Adopted 2013.

(a) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(b) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) evaluate characterization using emotional and sensory recall;

(B) explore preparation and warm-up techniques;

(C) create expressive movement and mime to define space and characters;

(D) demonstrate an increased understanding of the mechanisms of vocal production;

(E) apply knowledge of theatrical vocabulary and terminology; and

(F) explore and evaluate the structure and form of dramatic literature.

(2) Creative expression: performance. The student interprets characters using the voice and body expressively and creates dramatizations. The student is expected to:

(A) demonstrate safe use of the voice and body;

(B) portray characters through familiar movements and dialogue;

(C) create characters, dialogue, and actions that reflect dramatic structure in improvised and scripted scenes, individually and collaboratively; and

(D) express thoughts and feelings using effective voice and diction.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) recognize and select specific technical elements to suggest environment, establish mood, and support character and actions for performance;

(B) create theatrical elements such as scenery, properties, lighting, sound, costume, makeup, and publicity using the principles of design;

(C) explore the director's role as a unifying force, problem solver, interpreter of script, and collaborator; and

(D) use technology in theatrical applications such as live theatre, video, and film.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) demonstrate theatre as a reflection of life in particular times, places, and cultures through performance;

(B) explore theatre heritage such as historical and cultural influences as it is preserved in dramatic text, traditions, and conventions; and

(C) explore the roles of theatre, film, television, and electronic media such as key developments, figures, and works on American society.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) understand and demonstrate appropriate audience etiquette at various types of live performances;

(B) develop a knowledge of the terminology and process of evaluation such as intent, structure, effectiveness, and value and apply this process to performances using appropriate theatre vocabulary;

(C) demonstrate knowledge of production elements in theatre, film, television, and other media; and

(D) explore career and vocational opportunities in theatre.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 475-1497



SUBCHAPTER F. HIGH SCHOOL

19 TAC §§117.301 - 117.326

The new sections are proposed under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the minimum, recommended, and advanced high school programs that are consistent with the required curriculum under §28.002.

The new sections implement the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

§117.301. Implementation of Texas Essential Knowledge and Skills for Fine Arts, High School, Adopted 2013.

(a) The provisions of §§117.301-117.326 of this subchapter shall be implemented by school districts.

(b) No later than August 31, 2014, the commissioner of education shall determine whether instructional materials funding has been made available to Texas public schools for materials that cover the essential knowledge and skills for fine arts as adopted in §§117.301-117.326 of this subchapter.

(c) If the commissioner makes the determination that instructional materials funding has been made available under subsection (b) of this section, §§117.301-117.326 of this subchapter shall be implemented beginning with the 2015-2016 school year and apply to the 2015-2016 and subsequent school years.

(d) If the commissioner does not make the determination that instructional materials funding has been made available under subsection (b) of this section, the commissioner shall determine no later than August 31 of each subsequent school year whether instructional materials funding has been made available. If the commissioner determines that instructional materials funding has been made available, the commissioner shall notify the State Board of Education and school districts that §§117.301-117.326 of this subchapter shall be implemented for the following school year.

(e) Sections 117.51-117.67 of this chapter shall be superseded by the implementation of §§117.301-117.326 under this section.

§117.302. Art, Level I (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following art courses: Art I, Art Appreciation, and Art and Media Communications I (one credit per course).

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower stu-

dents to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences as sources for thinking about, planning, and creating original artworks. Students communicate their thoughts and ideas with innovation and creativity. Through art, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: observation and perception. The student develops and expands visual literacy skills using critical thinking, imagination, and the senses to observe and explore the world by learning about, understanding, and applying the elements of art, principles of design, and expressive qualities. The student uses what the student sees, knows, and has experienced as sources for examining, understanding, and creating original artwork. The student is expected to:

(A) consider concepts and ideas from direct observation, original sources, experiences, and imagination for original artwork;

(B) identify and understand the elements of art, including line, shape, color, texture, form, space, and value, as the fundamentals of art in personal artwork;

(C) identify and understand the principles of design, including emphasis, repetition/pattern, movement/rhythm, contrast/variety, balance, proportion, and unity, in personal artwork; and

(D) make judgments about the expressive properties such as content, meaning, message, and metaphor of artwork using art vocabulary accurately.

(2) Creative expression. The student communicates ideas through original artwork using a variety of media with appropriate skills. The student expresses thoughts and ideas creatively while challenging the imagination, fostering reflective thinking, and developing disciplined effort and progressive problem-solving skills. The student is expected to:

(A) use visual solutions to create original artwork by problem solving through direct observation, original sources, experiences, narrations, and imagination;

(B) communicate a variety of applications for design solutions;

(C) use an understanding of copyright and public domain to appropriate imagery constituting the main focal point of original artwork when working from images rather than direct observation or imagination;

(D) create original artwork to communicate thoughts, feelings, ideas, or impressions;

(E) collaborate to create original works of art; and

(F) demonstrate effective use of art media and tools in drawing, painting, printmaking, sculpture, ceramics, fiber art, design, and digital art and media.

(3) Historical and cultural relevance. The student demonstrates an understanding of art history and culture by analyzing artistic styles, historical periods, and a variety of cultures. The student develops global awareness and respect for the traditions and contributions of diverse cultures. The student is expected to:

(A) compare and contrast historical and contemporary styles while identifying general themes and trends;

(B) describe general characteristics in artwork from a variety of cultures, which might also include personal identity and heritage;

(C) collaborate on community-based art projects; and

(D) compare and contrast career and avocational opportunities in art.

(4) Critical evaluation and response. The student responds to and analyzes the artworks of self and others, contributing to the development of the lifelong skills of making informed judgments and reasoned evaluations. The student is expected to:

(A) interpret, evaluate, and justify artistic decisions in artwork by self, peers, and other artists such as that in museums, local galleries, art exhibits, and websites;

(B) evaluate and analyze artwork using a verbal or written method of critique such as describing the artwork, analyzing the way it is organized, interpreting the artist's intention, and evaluating the success of the artwork;

(C) construct a physical or electronic portfolio by evaluating and analyzing personal original artwork to provide evidence of learning; and

(D) select and analyze original artwork, portfolios, and exhibitions to form precise conclusions about formal qualities, historical and cultural contexts, intentions, and meanings.

§117.303. Art, Level II (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following art courses: Art II, Drawing I, Painting I, Printmaking I, Fibers I, Ceramics I, Sculpture I, Jewelry I, Photography I, Design I, Digital Art and Media I, and Art and Media Communications II (one credit per course). The prerequisite for each art course listed in this subsection is one credit of Art, Level I.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive

functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences as sources for thinking about, planning, and creating original artworks. Students communicate their thoughts and ideas with innovation and creativity. Through art, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: observation and perception. The student develops and expands visual literacy skills using critical thinking, imagination, and the senses to observe and explore the world by learning about, understanding, and applying the elements of art, principles of design, and expressive qualities. The student uses what the student sees, knows, and has experienced as sources for examining, understanding, and creating original artworks. The student is expected to:

(A) use visual comparisons to illustrate concepts and ideas from direct observation, original sources, experiences, narration, and imagination for original artworks;

(B) identify and apply the elements of art, including line, shape, color, texture, form, space, and value, as the fundamentals of art in personal artworks;

(C) identify and apply the principles of design, including emphasis, repetition/pattern, movement/rhythm, contrast/variety, balance, proportion, and unity in personal artworks; and

(D) explore suitability of art media and processes to express specific ideas such as content, meaning, message, appropriation, and metaphor relating to visual themes of artworks using art vocabulary accurately.

(2) Creative expression. The student communicates ideas through original artworks using a variety of media with appropriate skills. The student expresses thoughts and ideas creatively while challenging the imagination, fostering reflective thinking, and developing disciplined effort and progressive problem-solving skills. The student is expected to:

(A) create original artwork using multiple solutions from direct observation, original sources, experiences, and imagination in order to expand personal themes that demonstrate artistic intent;

(B) apply design skills in creating practical applications, clarifying presentations, and examining consumer choices in order to make successful design decisions;

(C) use an understanding of copyright and public domain to appropriate imagery constituting the main focal point of original artwork when working from images rather than direct observation or imagination;

(D) create original artwork to communicate thoughts, feelings, ideas, or impressions;

(E) collaborate to create original works of art; and

(F) select from a variety of art media and tools to communicate specific ideas in drawing, painting, printmaking, sculpture, ceramics, fiber art, jewelry, mixed media, photography, and digital art and media.

(3) Historical and cultural relevance. The student demonstrates an understanding of art history and culture by analyzing artistic styles, historical periods, and a variety of cultures. The student develops global awareness and respect for the traditions and contributions of diverse cultures. The student is expected to:

(A) examine selected historical periods or styles of art to identify general themes and trends;

(B) analyze specific characteristics in artwork from a variety of cultures;

(C) collaborate on community-based art projects; and

(D) examine and research career, entrepreneurial, and avocational opportunities in art.

(4) Critical evaluation and response. The student responds to and analyzes the artworks of self and others, contributing to the development of the lifelong skills of making informed judgments and reasoned evaluations. The student is expected to:

(A) interpret, evaluate, and justify artistic decisions in artwork by self, peers, and other artists such as that in museums, local galleries, art exhibits, and websites;

(B) evaluate and analyze artwork using a method of critique such as describing the artwork, analyzing the way it is organized, interpreting the artist's intention, and evaluating the success of the artwork;

(C) use responses to artwork critiques to make decisions about future directions in personal work;

(D) construct a physical or electronic portfolio by evaluating and analyzing personal original artworks to provide evidence of learning; and

(E) select and analyze original artwork, portfolios, and exhibitions to form precise conclusions about formal qualities, historical and cultural contexts, intentions, and meanings.

§117.304. Art, Level III (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following art courses: Art III, Drawing II, Painting II, Printmaking II, Fibers II, Ceramics II, Sculpture II, Jewelry II, Photography II, Design II, Digital Art and Media II, Advanced Placement (AP) Studio Art: Drawing Portfolio, AP Studio Art: Two-Dimensional Design Portfolio, AP Studio Art: Three-Dimensional Design Portfolio, AP Art History, International Baccalaureate (IB) Visual Arts I Standard Level (SL), or IB Visual Arts I Higher Level (HL) (one credit per course). There are no prerequisites for AP Art History and all IB courses. One credit in an Art, Level II course is a highly recommended prerequisite for AP Studio Art: Drawing Portfolio, AP Studio Art: Two-Dimensional Design Portfolio, and AP Studio Art: Three-Dimensional De-

sign Portfolio. The prerequisite for all other Art, Level III courses is one credit of Art, Level II in the corresponding discipline.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences as sources for thinking about, planning, and creating original artworks. Students communicate their thoughts and ideas with innovation and creativity. Through art, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: observation and perception. The student develops and expands visual literacy skills using critical thinking, imagination, and the senses to observe and explore the world by learning about, understanding, and applying the elements of art, principles of design, and expressive qualities. The student uses what the student sees, knows, and has experienced as sources for examining, understanding, and creating original artwork. The student is expected to:

(A) analyze visual characteristics of sources to illustrate concepts, demonstrate flexibility in solving problems, create multiple solutions, and think imaginatively;

(B) compare and contrast the elements of art, including line, shape, color, texture, form, space, and value, as the fundamentals of art in personal artwork;

(C) compare and contrast the principles of design, including emphasis, repetition/pattern, movement/rhythm, contrast/variety, balance, proportion, and unity, in personal artwork; and

(D) explore the suitability of art media and processes and select those appropriate to express specific ideas such as content, meaning, message, and metaphor relating to visual themes to interpret the expressive qualities of artwork.

(2) Creative expression. The student communicates ideas through original artwork using a variety of media with appropriate skills. The student expresses thoughts and ideas creatively while challenging the imagination, fostering reflective thinking, and developing

disciplined effort and progressive problem-solving skills. The student is expected to:

(A) create original artwork using multiple solutions from direct observation, original sources, experiences, and imagination in order to expand personal themes that demonstrate artistic intent;

(B) solve visual problems and develop multiple solutions for designing ideas, creating practical applications, clarifying presentations, and evaluating consumer choices in order to make successful design decisions;

(C) use an understanding of copyright and public domain to appropriate imagery constituting the main focal point of original artwork when working from images rather than direct observation or imagination;

(D) create original artwork to communicate thoughts, feelings, ideas, or impressions;

(E) collaborate to create original works of art; and

(F) select from a variety of art media and tools to express intent in drawing, painting, printmaking, sculpture, ceramics, fiber art, design, digital art and media, photography, jewelry, and mixed media.

(3) Historical and cultural relevance. The student demonstrates an understanding of art history and culture by analyzing artistic styles, historical periods, and a variety of cultures. The student develops global awareness and respect for the traditions and contributions of diverse cultures. The student is expected to:

(A) research selected historical periods, artists, general themes, trends, and styles of art;

(B) distinguish the correlation between specific characteristics and influences of various cultures and contemporary artwork;

(C) collaborate on community-based art projects; and

(D) examine, research, and develop a plan of action for relevant career, entrepreneurial, and avocational art opportunities within a global economy.

(4) Critical evaluation and response. The student responds to and analyzes the artworks of self and others, contributing to the development of the lifelong skills of making informed judgments and reasoned evaluations. The student is expected to:

(A) interpret, evaluate, and justify artistic decisions in artwork such as that in museums, local galleries, art exhibits, and websites based on evaluation of developmental progress, competency in problem solving, and a variety of visual ideas;

(B) evaluate and analyze artwork using a method of critique such as describing the artwork, analyzing the way it is organized, interpreting the artist's intention, and evaluating the success of the artwork;

(C) analyze personal artwork in order to create a written response such as an artist's statement reflecting intent, inspiration, the elements of art and principles of design within the artwork, and measure of uniqueness;

(D) use responses to artwork critiques to make decisions about future directions in personal work;

(E) construct a physical or electronic portfolio by evaluating and analyzing personal original artwork to provide evidence of learning; and

(F) select and analyze original artwork, portfolios, and exhibitions to demonstrate innovation and provide examples of in-depth exploration of qualities such as aesthetics; formal, historical, and cultural contexts; intentions; and meanings.

§117.305. Art, Level IV (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following art courses: Art IV, Drawing III, Painting III, Printmaking III, Fibers III, Ceramics III, Sculpture III, Jewelry III, Photography III, Design III, Digital Art and Media III, Advanced Placement (AP) Studio Art: Drawing Portfolio, AP Studio Art: Two-Dimensional Design Portfolio, AP Studio Art: Three-Dimensional Design Portfolio, AP Art History, International Baccalaureate (IB) Visual Arts II Standard Level (SL), and IB Visual Arts II Higher Level (HL) (one credit per course). There are no prerequisites for AP Art History. The prerequisites for the IB courses listed in this subsection are the corresponding Art, Level II IB courses. One credit in an Art, Level II course is a highly recommended prerequisite for AP Studio Art: Drawing Portfolio, AP Studio Art: Two-Dimensional Design Portfolio, and AP Studio Art: Three-Dimensional Design Portfolio. The prerequisite for all other Art, Level IV courses is one credit of Art, Level III in the corresponding discipline.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences as sources for thinking about, planning, and creating original artworks. Students communicate their thoughts and ideas with innovation and creativity. Through art, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: observation and perception. The student develops and expands visual literacy skills using critical thinking, imagination, and the senses to observe and explore the world by learning about, understanding, and applying the elements of art, principles of design, and expressive qualities. The student uses what the student sees, knows, and has experienced as sources for examining,

understanding, and creating original artwork. The student is expected to:

(A) consider concepts and themes for personal artwork that integrate an extensive range of visual observations, experiences, and imagination;

(B) compare and contrast the elements of art, including line, shape, color, texture, form, space, and value, as the fundamentals of art in personal artwork;

(C) compare and contrast the principles of design, including emphasis, repetition/pattern, movement/rhythm, contrast/variety, balance, proportion, and unity, in personal artwork; and

(D) discriminate between art media and processes to express complex visual relationships such as content, meaning, message, and metaphor using extensive art vocabulary.

(2) Creative expression. The student communicates ideas through original artworks using a variety of media with appropriate skills. The student expresses thoughts and ideas creatively while challenging the imagination, fostering reflective thinking, and developing disciplined effort and progressive problem-solving skills. The student is expected to:

(A) produce an original body of artwork that integrates information from a variety of sources, including original sources, and demonstrates sustained self-directed investigations into specific themes such as a series or concentration of works;

(B) evaluate and justify design ideas and concepts to create a body of personal artwork;

(C) use an understanding of copyright and public domain to appropriate imagery constituting the main focal point of original artwork when working from images rather than direct observation or imagination;

(D) create original artwork to communicate thoughts, feelings, ideas, or impressions;

(E) collaborate to create original works of art; and

(F) create artwork, singularly and in a series, by selecting from a variety of art materials and tools appropriate to course work in drawing, painting, printmaking, sculpture, ceramics, fiber art, design, digital art and media, photography, jewelry, and mixed media.

(3) Historical and cultural relevance. The student demonstrates an understanding of art history and culture by analyzing artistic styles, historical periods, and a variety of cultures. The student develops global awareness and respect for the traditions and contributions of diverse cultures. The student is expected to:

(A) research and report on selected historical periods, artists, general themes, trends, and styles of art;

(B) analyze and evaluate the influence of contemporary cultures on artwork;

(C) collaborate on community-based art projects; and

(D) examine, research, and develop a plan of action for relevant career or entrepreneurial art opportunities within a global economy, justifying the choice.

(4) Critical evaluation and response. The student responds to and analyzes the artworks of self and others, contributing to the development of the lifelong skills of making informed judgments and reasoned evaluations. The student is expected to:

(A) develop evaluative criteria to justify artistic decisions in artwork such as that in museums, local galleries, art exhibits, and websites based on a high level of creativity and expertise in one or more art areas;

(B) evaluate and analyze artwork using a method of critique such as describing the artwork, analyzing the way it is organized, interpreting the artist's intention, and evaluating the success of the artwork;

(C) analyze personal artwork in order to create a written response such as an artist's statement reflecting intent, inspiration, the elements of art and principles of design within the artwork, and the measure of uniqueness;

(D) use responses to artwork critiques to make decisions about future directions in personal work;

(E) construct a physical or electronic portfolio by evaluating and analyzing personal original artwork to provide evidence of learning; and

(F) evaluate a wide range of artwork to form conclusions about formal qualities, aesthetics, historical and cultural contexts, intents, and meanings.

§117.306. Dance, Level I (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following dance courses: Principles of Dance I, Ballet I, Modern/Contemporary Dance I, Jazz I, Tap I, World Dance Forms I, Dance Composition/Improvisation I, Dance Theory I, Dance Performance/Ensemble I, Dance and Media Communication I (prerequisite is Dance, Middle School 1, 2, or 3), Dance Production I, and Dance Wellness I (one credit per course).

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Dance students develop perceptual thinking and movement abilities in daily life, promoting an understanding of themselves and others. Students develop movement principles and technical skills and explore choreographic and performance qualities. Students develop self-discipline and healthy bodies that move expressively, efficiently, and safely through space and time with a sensitive kinesthetic awareness. Students recognize dance as a vehicle for understanding historical and cultural relevance, increasing an awareness of heritage and traditions of their own and others, and enabling them to participate in a diverse society. Evaluating and analyzing dance allows students to strengthen decision-making skills, develop critical and creative thinking, and develop artistic and creative processes. Students continue to explore technology and its application to dance and movement, enabling them to make informed decisions about dance.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: perception. The student develops an awareness of the body's movement using sensory information while dancing. The student is expected to:

(A) define basic kinesthetic and spatial awareness individually and in groups;

(B) identify a comprehensive understanding of health, safety, and wellness for dancers;

(C) recognize knowledge of dance genres, styles, and vocabulary; and

(D) identify images found in the environment through movement.

(2) Creative expression: artistic process. The student develops knowledge and skills of dance elements, choreographic processes, and forms in a variety of dance genres and styles. The student is expected to:

(A) explain basic principles of proper body alignment;

(B) explore, improvise, and demonstrate original movement during the creative process;

(C) express ideas and emotions through movement; and

(D) create basic compositional forms using fundamental dance elements for choreographic processes.

(3) Creative expression: performance. The student demonstrates knowledge and execution of technical dance skills in a variety of dance genres and styles through performing. The student is expected to:

(A) perform memorized movement sequences with rhythmical accuracy in dance genres and styles such as ballet, modern dance, tap, jazz, musical theatre dance, and world dance forms;

(B) identify the effective use of dance elements in practice and performance;

(C) perform basic compositional forms using fundamental choreographic processes; and

(D) understand the principles of an effective warm-up and cool-down, implementing elements of proper conditioning for performing skills.

(4) Historical and cultural relevance. The student demonstrates an understanding of cultural, historical, and artistic diversity. The student is expected to:

(A) perform the characteristics of dances from several diverse cultures or historical periods;

(B) perform dance phrases or dances from several time periods with an understanding of historical and social contexts;

(C) identify historical figures in dance history and their significance; and

(D) identify dance in various media and content areas.

(5) Critical evaluation and response. The student makes informed personal judgments about dance and the meaning and role of dance in society. The student is expected to:

(A) incorporate appropriate movement vocabulary when identifying qualities and discussing meaning of performance or production in dance;

(B) demonstrate appropriate audience behavior and etiquette in the classroom and at performances;

(C) identify relationships between dance and other content areas; and

(D) identify knowledge and skills of technology in dance.

§117.307. Dance, Level II (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following dance courses: Principles of Dance II, Ballet II, Modern/Contemporary Dance II, Jazz II, Tap II, World Dance Forms II, Dance Composition/Improvisation II, Dance Theory II, Dance Performance/Ensemble II, Dance Production II, Dance Wellness II, and Dance and Media Communications II (one credit per course). The prerequisite for each Dance, Level II course is one credit of Dance, Level I in the corresponding discipline.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Dance students develop perceptual thinking and movement abilities in daily life, promoting an understanding of themselves and others. Students develop movement principles and technical skills and explore choreographic and performance qualities. Students develop self-discipline and healthy bodies that move expressively, efficiently, and safely through space and time with a sensitive kinesthetic awareness. Students recognize dance as a vehicle for understanding historical and cultural relevance, increasing an awareness of heritage and traditions of their own and others, and enabling them to participate in a diverse society. Evaluating and analyzing dance allows students to strengthen decision-making skills, develop critical and creative thinking, and develop artistic and creative processes. Students will continue to explore technology and its application to dance and movement, enabling them to make informed decisions about dance.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: perception. The student develops an awareness of the body's movement using sensory information while dancing. The student is expected to:

(A) demonstrate kinesthetic and spatial awareness individually and in groups;

(B) expand a comprehensive understanding of health, safety, and wellness for dancers;

(C) demonstrate effective knowledge of dance genres, styles, and vocabulary; and

(D) interpret details in movement in natural and constructed environments.

(2) Creative expression: artistic process. The student develops knowledge and skills of dance elements, choreographic processes, and forms in a variety of dance genres and styles. The student is expected to:

(A) expand a comprehensive understanding of principles of proper body alignment;

(B) explore, improvise, and perform original movement during the creative process;

(C) expand the expression of ideas and emotions through movement; and

(D) create enhanced compositional forms using fundamental dance elements for choreographic processes.

(3) Creative expression: performance. The student demonstrates knowledge and execution of technical dance skills in a variety of dance genres and styles through performing. The student is expected to:

(A) perform extended movement patterns with rhythmic accuracy in dance genres and styles such as ballet, modern dance, tap, jazz, musical theatre dance, and world dance forms;

(B) demonstrate the elements of dance effectively;

(C) perform enhanced compositional forms using sound choreographic processes; and

(D) implement an effective warm-up and cool-down, implementing the elements of proper conditioning for performing skills.

(4) Historical and cultural relevance. The student demonstrates an understanding of cultural, historical, and artistic diversity. The student is expected to:

(A) analyze dances of various cultures or historical periods;

(B) choreograph short dance phrases that exhibit an understanding of various historical periods and social contexts;

(C) perform dances in various media and content areas; and

(D) interpret historical and cultural dance forms using technology.

(5) Critical evaluation and response. The student makes informed personal judgments about dance and the meaning and role of dance in society. The student is expected to:

(A) identify characteristics of a variety of dances;

(B) analyze qualities of performance and proper etiquette in dance;

(C) identify similarities of form and expression in dance and other content areas; and

(D) apply knowledge and skills of technology in dance.

§117.308. Dance, Level III (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following dance courses: Principles of Dance III, Ballet III, Modern/Contemporary Dance III, Jazz III, Tap III, World Dance Forms III, Dance Composition/Improvisation III, Dance Theory III, Dance Performance/Ensemble III, Dance Production III, Dance Wellness III, Dance History I, and International Baccalaureate (IB) Dance I (one credit per course). The prerequisite for each Dance, Level III course is one credit of Dance, Level II in the corresponding discipline, excluding Dance History I and IB Dance I courses.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Dance students develop perceptual thinking and movement abilities in daily life, promoting an understanding of themselves and others. Students develop movement principles and technical skills and explore choreographic and performance qualities. Students develop self-discipline and healthy bodies that move expressively, efficiently, and safely through space and time with a sensitive kinesthetic awareness. Students recognize dance as a vehicle for understanding historical and cultural relevance, increasing an awareness of heritage and traditions of their own and others, and enabling them to participate in a diverse society. Evaluating and analyzing dance allows students to strengthen decision-making skills, develop critical and creative thinking, and develop artistic and creative processes. Students continue to explore technology and its application to dance and movement, enabling them to make informed decisions about dance.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: perception. The student develops an awareness of the body's movement using sensory information while dancing. The student is expected to:

(A) analyze kinesthetic and spatial awareness individually and in groups;

(B) distinguish a comprehensive understanding of health, safety, and wellness for dancers;

(C) compare knowledge and skills of dance genres, styles, and vocabulary; and

(D) differentiate designs and images in natural and constructed environments.

(2) Creative expression: artistic process. The student develops knowledge and skills of dance elements, choreographic pro-

cesses, and forms in a variety of dance genres and styles. The student is expected to:

(A) create dance studies using original movement based on theme and variation;

(B) experiment, improvise, and perform original movement during the creative process;

(C) compare and contrast the expression of ideas and emotions through movement; and

(D) differentiate compositional forms using intermediate dance elements for choreographic processes.

(3) Creative expression: performance. The student demonstrates knowledge and execution of technical dance skills in a variety of dance genres and styles through performing. The student is expected to:

(A) perform and examine memorized complex movement sequences with rhythmical accuracy in dance genres and styles such as ballet, modern dance, tap, jazz, musical theatre dance, and world dance forms;

(B) execute a wide range of dynamics in quality movement;

(C) perform with projection, confidence, and expression when executing dance movements; and

(D) distinguish an effective warm-up and cool-down, implementing the elements of proper conditioning for performing skills.

(4) Historical and cultural relevance. The student demonstrates an understanding of cultural, historical, and artistic diversity. The student is expected to:

(A) compare similarities and differences in steps, styles, and traditions from various cultures or historical periods;

(B) recognize and evaluate dances as they relate to various historical periods and social contexts;

(C) create and experiment with dances in various media and content areas; and

(D) research historical and cultural dance forms using technology.

(5) Critical evaluation and response. The student makes informed personal judgments about dance and the meaning and role of dance in society. The student is expected to:

(A) compare characteristics and qualities of a variety of dances;

(B) analyze dance from a variety of perspectives such as those of dance critic, performer, choreographer, and audience member;

(C) understand the relationship of dance performance skills and other content areas; and

(D) experiment with knowledge and skills of technology through a dance portfolio.

§117.309. Dance, Level IV (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following dance courses: Principles of Dance IV, Ballet IV, Modern/Contemporary Dance IV, Jazz IV, Tap IV, World Dance Forms IV, Dance Composition/Improvisation IV, Dance Theory IV, Dance Performance/Ensemble IV, Dance Production IV, Dance Well-

ness IV, Dance History II, and International Baccalaureate (IB) Dance II (one credit per course). The prerequisite for each Dance, Level IV course is one credit of Dance, Level III in the corresponding discipline.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Dance students develop perceptual thinking and movement abilities in daily life, promoting an understanding of themselves and others. Students develop movement principles and technical skills and explore choreographic and performance qualities. Students develop self-discipline and healthy bodies that move expressively, efficiently, and safely through space and time with a sensitive kinesthetic awareness. Students recognize dance as a vehicle for understanding historical and cultural relevance, increasing an awareness of heritage and traditions of their own and others, and enabling them to participate in a diverse society. Evaluating and analyzing dance allows students to strengthen decision-making skills, develop critical and creative thinking, and develop artistic and creative processes. Students continue to explore technology and its application to dance and movement, enabling them to make informed decisions about dance.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: perception. The student develops an awareness of the body's movement using sensory information while dancing. The student is expected to:

(A) evaluate kinesthetic and spatial awareness individually and in groups;

(B) develop a working knowledge of health, safety, and wellness for dancers;

(C) demonstrate and evaluate a working knowledge and skills of dance genres, styles, and vocabulary; and

(D) create designs and images found in natural and constructed environments.

(2) Creative expression: artistic process. The student develops knowledge and skills of dance elements, choreographic processes, and forms in a variety of dance genres and styles. The student is expected to:

(A) create and improvise dance studies using original movement based on theme and variation to successfully communicate an idea;

(B) improvise, construct, and evaluate original movement studies;

(C) evaluate the expression of ideas and emotions through movement; and

(D) design compositional forms implementing advanced dance elements for choreographic processes.

(3) Creative expression: performance. The student demonstrates knowledge and execution of technical dance skills in a variety of dance genres and styles through performing. The student is expected to:

(A) assess performance of memorized complex movement sequences with rhythmical accuracy in dance genres and styles such as ballet, modern dance, tap, jazz, musical theatre dance, and world dance forms;

(B) perform dance movements with a refined sense of musicality and expressiveness and a wide range of spatial qualities;

(C) evaluate the performance of projection, confidence, and expression in the movement; and

(D) design an effective warm-up and cool-down, implementing the elements of proper conditioning for performing skills.

(4) Historical and cultural relevance. The student demonstrates an understanding of cultural, historical, and artistic diversity. The student is expected to:

(A) evaluate choreography in dances from various cultures or historical periods;

(B) research and create a project using technology to illustrate an understanding of significant dance events or historical figures in appropriate social, historical, and cultural contexts;

(C) improvise and construct dances in various media and content areas; and

(D) evaluate historical and cultural dance forms using technology.

(5) Critical evaluation and response. The student makes informed personal judgments about dance and the meaning and role of dance in society. The student is expected to:

(A) evaluate personal dance compositions and the work of others;

(B) create and reconstruct a choreographic study using varied media and environments;

(C) create a portfolio based on personal artistic works, performance works, or research; and

(D) perform and evaluate a choreographic study using varied media and environments.

§117.310. Music, Level I (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following music courses: Band I, Choir I, Orchestra I, Jazz Ensemble I, Jazz Improvisation I, Instrumental Ensemble I, Vocal Ensemble I, World Music Ensemble I, Applied Music I, Mariachi I, Piano I, Guitar I, and Harp I (one credit per course).

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order

thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to sing, play, read, write, and/or move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes music and musical sounds. The student develops organizational skills, engages in problem solving, and explores the properties and capabilities of various musical idioms. The student is expected to:

(A) experience and explore exemplary musical examples using technology and available live performances;

(B) identify and describe melodic and harmonic parts when listening to and performing music using a melodic reading system such as solfège, numbers, letter names, note names, or scale degrees;

(C) define concepts of music notation, intervals, and chord structure using appropriate terminology;

(D) define concepts of rhythm and meter using appropriate terminology and counting system;

(E) explore elements of music such as rhythm, meter, melody, harmony, key, expression markings, texture, form, dynamics, and timbre through literature selected for performance; and

(F) apply health and wellness concepts related to music practice such as body mechanics, hearing protection, vocal health, hydration, and appropriate hygienic practices.

(2) Foundations: music literacy. The student reads and writes music notation using an appropriate notation system. The student is expected to:

(A) read and notate music that incorporates rhythmic patterns in simple, compound, and asymmetric meters; and

(B) interpret music symbols and expressive terms referring to dynamics, tempo, and articulation.

(3) Creative expression. The student demonstrates musical artistry by singing or playing an instrument individually and in groups. The student performs music in a variety of genres at an appropriate level of difficulty. The student performs from notation and by memory as appropriate. The student develops cognitive and psychomotor skills. The student is expected to:

(A) demonstrate mature, characteristic sound appropriate for the genre;

(B) demonstrate psychomotor and kinesthetic skills such as appropriate posture, breathing, text, diction, articulation, vibrato, bowings, fingerings, phrasing, independent manual dexterities, and percussion techniques;

(C) demonstrate rhythmic accuracy using appropriate tempo;

(D) demonstrate observance of key signature and modalities;

(E) demonstrate correct intonation, appropriate phrasing, and appropriate dynamics; and

(F) create and notate or record original musical phrases.

(4) Creative expression. The student sight reads, individually and in groups, by singing or playing an instrument. The student reads from notation at an appropriate level of difficulty in a variety of styles. The student is expected to:

(A) demonstrate mature, characteristic sound appropriate for the genre while sight reading;

(B) demonstrate psychomotor and kinesthetic skills such as use of appropriate posture, breathing, text, diction, articulation, vibrato, bowings, fingerings, phrasing, independent manual dexterities, and percussion techniques while sight reading;

(C) demonstrate rhythmic accuracy while sight reading using a counting system within an appropriate tempo;

(D) demonstrate observance of key signature and modalities while sight reading;

(E) demonstrate use of a melodic reading system such as solfège, numbers, letter names, note names, or scale degrees while sight reading; and

(F) demonstrate correct intonation, appropriate phrasing, and appropriate dynamics while sight reading.

(5) Historical and cultural relevance. The student relates music to history, culture, and the world. The student is expected to:

(A) compare and contrast music by genre, style, culture, and historical period;

(B) identify music-related vocations and avocations;

(C) identify and describe the uses of music in societies and cultures;

(D) identify and explore the relationship between music and other academic disciplines;

(E) identify and explore the impact of technologies, ethical issues, and economic factors on music, performers, and performances; and

(F) identify and explore tools for college and career preparation such as social media applications, repertoire lists, auditions, and interview techniques.

(6) Critical evaluation and response. The student listens to, responds to, and evaluates music and musical performance in both formal and informal settings. The student is expected to:

(A) practice informed concert etiquette as a performer and as an audience member during live and recorded performances in a variety of settings;

(B) design and apply criteria for making informed judgments regarding the quality and effectiveness of musical performances;

(C) develop processes for self-evaluation and select tools for personal artistic improvement; and

(D) evaluate musical performances by comparing them to exemplary models.

§117.311. Music, Level II (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following music courses: Band II, Choir II, Orchestra II, Jazz Ensemble II, Jazz Improvisation II, Instrumental Ensemble II, Vocal Ensemble II, World Music Ensemble II, Applied Music II, Mariachi II, Piano II, Guitar II, and Harp II (one credit per course). The prerequisite for each Music, Level II course is one credit of Music, Level I in the corresponding discipline.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to sing, play, read, write, and/or move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes music and musical sounds. The student develops organizational skills, engages in problem solving, and explores the properties and capabilities of various musical idioms. The student is expected to:

(A) compare and contrast exemplary musical examples using technology and available live performances;

(B) compare and contrast melodic and harmonic parts using a melodic reading system such as solfège, numbers, letter names, note names, or scale degrees;

(C) compare and contrast concepts of music notation, intervals, and chord structure using appropriate terminology;

(D) compare and contrast concepts of rhythm and meter using appropriate terminology and counting system;

(E) compare and contrast musical forms such as song, binary, ternary, and rondo selected for performance and listening;

(F) compare and contrast concepts of balance and blend using appropriate terminology;

(G) compare and contrast concepts of music such as rhythm, meter, melody, harmony, key, expression markings, dynamics, and timbre; and

(H) apply health and wellness concepts related to music practice such as body mechanics, hearing protection, vocal health, hydration, and appropriate hygienic practices.

(2) Foundations: music literacy. The student reads and notates music using an appropriate notation system. The student is expected to:

(A) read and notate music that incorporates rhythmic patterns in simple, compound, and asymmetric meters; and

(B) interpret music symbols and expressive terms referring to dynamics, tempo, and articulation.

(3) Creative expression. The student demonstrates musical artistry by singing or playing an instrument individually and in groups. The student performs music in a variety of genres at an increasing level of difficulty. The student performs from notation and by memory as appropriate. The student develops cognitive, affective, and psychomotor skills. The student is expected to:

(A) demonstrate increasingly mature, characteristic sound appropriate for the genre;

(B) refine and apply psychomotor and kinesthetic skills such as appropriate posture, breathing, text, diction, articulation, vibrato, bowings, fingerings, phrasing, independent manual dexterities, and percussion techniques;

(C) demonstrate rhythmic accuracy using appropriate tempo;

(D) demonstrate observance of key signatures and modalities;

(E) demonstrate correct intonation, appropriate phrasing, and appropriate dynamics; and

(F) create and notate or record original musical phrases at an appropriate level of difficulty.

(4) Creative expression. The student sight reads, individually and in groups, by singing or playing an instrument. The student reads from notation at an increasing level of difficulty in a variety of styles. The student is expected to:

(A) exhibit increasingly mature, characteristic sound appropriate for the genre while sight reading;

(B) demonstrate, refine, and apply psychomotor and kinesthetic skills such as appropriate posture, breathing, text, diction, articulation, vibrato, bowings, fingerings, phrasing, independent manual dexterities, and percussion techniques while sight reading;

(C) demonstrate correct articulation and rhythmic accuracy while sight reading using a counting system within an appropriate tempo;

(D) demonstrate observance of multiple key signatures and changing modalities while sight reading;

(E) demonstrate use of a melodic reading system such as solfège, numbers, letter names, note names, or scale degrees while sight reading;

(F) demonstrate application of dynamics and phrasing while sight reading; and

(G) demonstrate accurate intonation while sight reading using concepts such as vowel shapes, ensemble blend, and just intonation.

(5) Historical and cultural relevance. The student relates music to history, culture, and the world. The student is expected to:

(A) compare and contrast music by genre, style, culture, and historical period;

(B) define uses of music in societies and cultures;

(C) identify and explore the relationships between music and other academic disciplines;

(D) identify music-related vocations and avocations;

(E) identify and explore the impact of technologies, ethical issues, and economic factors on music, musicians, and performances; and

(F) identify and explore tools for college and career preparation such as personal performance recordings, social media applications, repertoire lists, auditions, and interview techniques.

(6) Critical evaluation and response. The student listens to, responds to, and evaluates music and musical performance in formal and informal settings. The student is expected to:

(A) exhibit informed concert etiquette as a performer and as an audience member during live and recorded performances in a variety of settings;

(B) design and apply criteria for making informed judgments regarding the quality and effectiveness of musical performances;

(C) develop processes for self-evaluation and select tools for personal artistic improvement; and

(D) evaluate musical performances by comparing them to exemplary models.

§117.312. Music, Level III (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following music courses: Band III, Choir III, Orchestra III, Jazz Ensemble III, Jazz Improvisation III, Instrumental Ensemble III, Vocal Ensemble III, World Music Ensemble III, Applied Music III, Mariachi III, Piano III, Guitar III, and Harp III (one credit per course). The prerequisite for all Music, Level III music courses is one credit of Music, Level II in the corresponding discipline.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to sing, play, read, write, and/or move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes music and musical sounds. The student develops organizational skills, engages in problem solving, and explores the properties and capabilities of various musical idioms. The student is expected to:

(A) evaluate exemplary musical examples using technology and available live performances;

(B) explore musical textures such as monophony, homophony, and polyphony while using a melodic reading system;

(C) compare and contrast concepts of music notation, intervals, and chord structure using appropriate terminology;

(D) compare and contrast concepts of rhythm and meter using appropriate terminology and counting system;

(E) compare and contrast musical forms such as song, binary, ternary, rondo, and sonata-allegro selected for performance and listening;

(F) compare and contrast concepts of balance and blend using appropriate terminology;

(G) compare and contrast musical styles and genres such as cantata, opera, zydeco, motet, hip-hop, symphony, anthem, march, beats, musical theatre, gospel jazz, and spirituals;

(H) compare and contrast concepts of music such as rhythm, meter, melody, harmony, texture, key, expression markings, dynamics, and timbre using literature selected for performance; and

(I) apply health and wellness concepts related to music practice such as body mechanics, hearing protection, vocal health, hydration, and appropriate hygienic practices.

(2) Foundations: music literacy. The student reads and notates music using an appropriate notation system. The student is expected to:

(A) read and notate music that incorporates melody and rhythm; and

(B) interpret music symbols and expressive terms referring to style, dynamics, tempo, and articulation.

(3) Creative expression. The student demonstrates musical artistry by singing or playing an instrument individually and in groups. The student performs music in a variety of genres at an increasing level of difficulty. The student performs from notation and by memory as ap-

appropriate. The student develops cognitive, affective, and psychomotor skills. The student is expected to:

(A) demonstrate mature, characteristic sound appropriate for the genre;

(B) refine and apply psychomotor and kinesthetic skills such as appropriate posture, breathing, text, diction, articulation, vibrato, bowings, fingerings, phrasing, independent manual dexterities, and percussion techniques;

(C) demonstrate rhythmic accuracy using appropriate tempo;

(D) demonstrate observance of key signatures and modalities;

(E) demonstrate correct intonation, appropriate phrasing, and appropriate dynamics; and

(F) create and notate or record original musical phrases at an appropriate level of difficulty.

(4) Creative expression. The student sight reads, individually and in groups, by singing or playing an instrument. The student reads from notation at an increasing level of difficulty in a variety of styles. The student is expected to:

(A) exhibit mature, characteristic sound appropriate for the genre while sight reading;

(B) refine and apply psychomotor and kinesthetic skills such as appropriate posture, breathing, text, diction, articulation, vibrato, bowings, fingerings, phrasing, independent manual dexterities, and percussion techniques while sight reading;

(C) demonstrate correct articulation and rhythmic accuracy while sight reading using a counting system within an appropriate tempo;

(D) demonstrate observance of multiple key signatures and changing modalities while sight reading;

(E) demonstrate use of a melodic reading system such as solfège, numbers, letter names, note names, or scale degrees while sight reading;

(F) demonstrate application of dynamics and phrasing while sight reading; and

(G) demonstrate accurate intonation while sight reading using concepts such as vowel shapes, ensemble blend, and just intonation.

(5) Historical and cultural relevance. The student relates music to history, culture, and the world. The student is expected to:

(A) classify representative examples of music by genre, style, culture, and historical period;

(B) explore the relevance of music to societies and cultures;

(C) define the relationships between music content and concepts and other academic disciplines;

(D) analyze music-related career options;

(E) analyze and evaluate the impact of technologies, ethical issues, and economic factors on music, performers, and performances; and

(F) generate tools for college and career preparation such as electronic portfolios, personal resource lists, performance

recordings, social media applications, repertoire lists, auditions, and interview techniques.

(6) Critical evaluation and response. The student responds to and evaluates written music and musical performance in formal and informal settings. The student is expected to:

(A) exhibit informed concert etiquette as a performer and an audience member during live and recorded performances in a variety of settings;

(B) create and apply specific criteria for evaluating performances of various musical styles;

(C) create and apply specific criteria for offering constructive feedback using a variety of music performances;

(D) develop processes for self-evaluation and select tools for personal artistic improvement such as critical listening and individual and group performance recordings; and

(E) evaluate musical performances by comparing them to similar or exemplary models and offering constructive suggestions for improvement.

§117.313. Music, Level IV (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following music courses: Band IV, Choir IV, Orchestra IV, Jazz Ensemble IV, Jazz Improvisation IV, Instrumental Ensemble IV, Vocal Ensemble IV, World Music Ensemble IV, Applied Music IV, Mariachi IV, Piano IV, Guitar IV, and Harp IV (one credit per course). The prerequisite for all Music, Level IV courses is one credit of Music, Level III in the corresponding discipline.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to sing, play, read, write, and/or move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes music and musical sounds. The student develops organizational skills, engages in problem solving, and explores the properties and capabilities of various musical idioms. The student is expected to:

(A) evaluate exemplary musical examples using technology and available live performances;

(B) analyze advanced musical textures while using a melodic reading system;

(C) analyze concepts of music notation, intervals, and chord structure using appropriate terminology;

(D) analyze concepts of rhythm and meter using appropriate terminology and counting system;

(E) analyze musical forms in music selected for performance and listening;

(F) analyze concepts of balance and blend using appropriate terminology;

(G) analyze musical styles and genres such as cantata, opera, zydeco, motet, hip-hop, symphony, anthem, march, beats, musical theatre, gospel jazz, and spirituals;

(H) analyze concepts of music such as rhythm, meter, melody, harmony, texture, key, expression markings, dynamics, and timbre using literature selected for performance; and

(I) analyze and apply health and wellness concepts related to music practice such as body mechanics, repetitive motion injury prevention, first-aid training, hearing protection, vocal health, hydration, and appropriate hygienic practices.

(2) Foundations: music literacy. The student reads and notates music using an appropriate notation system. The student is expected to:

(A) read and notate music that incorporates advanced melodies and rhythms; and

(B) interpret music symbols and expressive terms.

(3) Creative expression. The student demonstrates musical artistry by singing or playing an instrument individually and in groups. The student performs music in a variety of genres at an increasing level of difficulty. The student performs from notation and by memory as appropriate. The student develops cognitive, affective, and psychomotor skills. The student is expected to:

(A) demonstrate mature, characteristic sound appropriate for the genre;

(B) analyze and apply psychomotor and kinesthetic skills such as appropriate posture, breathing, text, diction, articulation, vibrato, bowings, fingerings, phrasing, independent manual dexterities, and percussion techniques;

(C) demonstrate rhythmic accuracy using complex patterns at an appropriate tempo;

(D) demonstrate observance of key signatures and modalities;

(E) demonstrate correct intonation, appropriate phrasing, and appropriate dynamics; and

(F) create and notate or record original musical phrases at an increasing level of difficulty.

(4) Creative expression. The student sight reads, individually and in groups, by singing or playing an instrument. The student

reads from notation at an increasing level of difficulty in a variety of styles. The student is expected to:

(A) exhibit mature, characteristic sound appropriate for the genre while sight reading;

(B) refine and apply psychomotor and kinesthetic skills such as appropriate posture, breathing, text, diction, articulation, vibrato, bowings, fingerings, phrasing, independent manual dexterities, and percussion techniques while sight reading;

(C) demonstrate correct articulation and rhythmic accuracy while sight reading using a counting system within an appropriate tempo;

(D) demonstrate observance of multiple key signatures and changing modalities while sight reading;

(E) demonstrate use of a melodic reading system such as solfège, numbers, letter names, note names, or scale degrees while sight reading;

(F) demonstrate application of dynamics and phrasing while sight reading; and

(G) demonstrate accurate intonation while sight reading using concepts such as vowel shapes, ensemble blend, and just intonation.

(5) Historical cultural relevance. The student relates music to history, culture, and the world. The student is expected to:

(A) discriminate representative examples of music by genre, style, culture, and historical period;

(B) evaluate the relevance of music to societies and cultures;

(C) define the relationships between music content and concepts and other academic disciplines;

(D) explain a variety of music and music-related career options;

(E) analyze and evaluate the impact of technologies, ethical issues, and economic factors on music, performers, and performances; and

(F) generate tools for college and career preparation such as curricula vitae, electronic portfolios, personal resource lists, performance recordings, social media applications, repertoire lists, and audition and interview techniques.

(6) Critical evaluation and response. The student responds to and evaluates written music and musical performance in formal and informal settings. The student is expected to:

(A) exhibit informed concert etiquette as a performer and an audience member during live and recorded performances in a variety of settings;

(B) create and apply specific criteria for evaluating performances of various musical styles;

(C) create and apply specific criteria for offering constructive feedback using a variety of musical performances;

(D) develop processes for self-evaluation and select tools for personal artistic improvement; and

(E) evaluate musical performances and compositions by comparing them to similar or exemplary models and offering constructive suggestions for improvement.

§117.314. Music Studies (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following music courses: Music Theory I-II; Music Appreciation I-II; Music Business I-II; Music Composition I-II; Music Production I-II; Music and Media Communications I-II; College Board Advanced Placement (AP) Music Theory; International Baccalaureate (IB) Music, Standard Level (SL); and IB Music, Higher Level (HL). There are no prerequisites for Music Study Level I courses; however, the prerequisite for IB Music, SL and IB Music, HL is one credit of any Music, Level II course. Students may take Music Studies with different course content for a maximum of three credits.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: observation and perception, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. The foundation of music literacy is fostered through reading, writing, reproducing, and creating music, thus developing a student's intellect. Through creative expression, students apply their music literacy and the critical-thinking skills of music to read, write, create, and/or move. By experiencing musical periods and styles, students will understand the relevance of music to history, culture, and the world, including the relationship of music to other academic disciplines and the vocational possibilities offered. Through critical listening, students analyze, evaluate, and respond to music, developing criteria for making critical judgments and informed choices.

(3) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: music literacy. The student describes and analyzes music and musical sounds. The student develops organizational skills, engages in problem solving, and explores the properties and capabilities of various musical idioms. The student is expected to:

(A) experience and explore exemplary musical examples using technology and available live performances;

(B) identify and describe melodic and harmonic parts when listening to and performing music using a melodic reading system such as solfège, numbers, letter names, note names, or scale degrees;

(C) define concepts of music notation, intervals, and chord structure using appropriate terminology;

(D) define concepts of rhythm and meter using appropriate terminology and counting system;

(E) explore elements of music such as rhythm, meter, melody, harmony, key, expression markings, texture, form, dynamics, and timbre through literature selected for performance; and

(F) apply health and wellness concepts related to music practice such as body mechanics, hearing protection, vocal health, hydration, and appropriate hygienic practices.

(2) Foundations: music literacy. The student reads and notates music using an appropriate notation system. The student is expected to:

(A) read notation systems or manipulate sounds as appropriate to the course of study;

(B) read and notate or record and produce music that incorporates rhythmic patterns in simple, compound, and asymmetric meters as appropriate;

(C) interpret music symbols and expressive terms referring to concepts such as dynamics, tempo, and articulation as appropriate;

(D) demonstrate cognitive skills, including observance of key signature and modalities, while studying or producing music at an appropriate level of difficulty; and

(E) demonstrate music-making skills such as appropriate use of technology in recording, notating, editing, manipulating, arranging, Standard Motion Picture Time Encryption (SMPT), and emergent technologies.

(3) Creative expression. The student, individually and in groups, makes music of an appropriate level of difficulty in a variety of genres from notation, recording, or by memory as appropriate. The student is expected to:

(A) demonstrate, create, or apply characteristic sounds appropriate for the genre;

(B) create, examine, or perform a repertoire of music representing a variety of styles, including those from diverse cultures;

(C) demonstrate understanding of correct articulation and rhythmic accuracy;

(D) demonstrate understanding of correct dynamics and phrasing;

(E) demonstrate understanding of correct intonation; and

(F) exhibit and explain appropriate performance techniques for formal and informal concerts or recording sessions.

(4) Creative expression. The student creates original music within specified guidelines. The student is expected to:

(A) create original musical phrases; and

(B) notate or record original musical phrases.

(5) Historical and cultural relevance. The student relates music to history, culture, and the world. The student is expected to:

(A) compare and contrast music by genre, style, culture, and historical period;

(B) identify music-related vocations and avocations;

(C) identify and describe the uses of music in societies and cultures;

(D) identify and explore the relationship between music and other academic disciplines;

(E) identify and explore the impact of technologies, ethical issues, and economic factors on music, musicians, and performances; and

(F) identify and explore tools for college and career preparation such as social media applications, repertoire lists, and audition and interview techniques.

(6) Critical evaluation and response. The student listens to, responds to, and evaluates music and musical performance in formal and informal settings. The student is expected to:

(A) practice informed concert etiquette as a performer and an audience member during live and recorded performances in a variety of settings;

(B) design and apply criteria for making informed judgments regarding the quality and effectiveness of musical performances;

(C) develop processes for self-evaluation and select tools for personal artistic improvement such as critical listening and individual and group performance recordings; and

(D) evaluate musical performances by comparing them to exemplary models.

§117.315. Theatre, Level I, Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following theatre courses: Theatre Arts I, Theatre and Media Communications I (one credit per course), and Theatre Production I (one-half to one credit). A level I theatre course is suggested as a prerequisite for level II theatre courses.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Through diverse forms of storytelling and production, students will exercise and develop creativity, intellectual curiosity, critical thinking, problem solving, and collaborative skills. Participation and evaluation in a variety of theatrical experiences will afford students opportunities to develop an understanding of self and their role in the world.

(4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) understand the value and purpose of using listening, observation, concentration, cooperation, and emotional and sensory recall;

(B) develop and practice theatre preparation and warm-up techniques;

(C) develop and practice stage movement techniques such as mime, pantomime, stage combat, Laban, Lecoq, or Viewpoints consistently to express thoughts, feelings, and actions non-verbally;

(D) develop and practice effective voice and diction to express thoughts and feelings;

(E) analyze characters by describing attributes such as physical, intellectual, emotional, and social dimensions through reading scripts of published plays;

(F) demonstrate a working knowledge of the language of theatre such as stage terminology, elements of theatre, or theatrical conventions;

(G) analyze and describe the interdependence of all theatrical elements;

(H) define the roles of and appreciate the collaborative relationships between all artistic partners such as playwrights, composers, directors, actors, designers, technicians, and audience;

(I) identify and practice memorization skills;

(J) identify the principles of improvisation; and

(K) identify and recognize the importance of safe theatre practices.

(2) Creative expression: performance. The student interprets characters using the voice and body expressively and creates dramatizations. The student is expected to:

(A) demonstrate safe use of the voice and body;

(B) define creativity as it relates to personal expression;

(C) employ effective voice and diction to express thoughts and feelings;

(D) use physical, intellectual, emotional, and social awareness to portray believable characters and convey a story when applying acting concepts, skills, and techniques;

(E) employ physical techniques consistently to express thoughts, feelings, and actions non-verbally; and

(F) create, write, and refine original monologues, improvisations, scenes, or vignettes that reflect dramatic structure to convey meaning to the audience through live performance or media forms.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) develop and practice technical theatre skills;

(B) apply technical knowledge and skills safely to create or operate theatrical elements such as scenery, properties, lighting, sound, costumes, makeup, current technology, or publicity;

(C) perform a role such as actor, director, designer, technician, or editor in production decision making and collaborate with others in a production role to tell a story through live theatre or media performance; and

(D) demonstrate responsibility, artistic discipline, and creative problem solving by concentrating in one or more areas of the theatre production such as acting, technical theatre, or theatre management.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) portray theatre as a reflection of life in particular times, places, and cultures;

(B) relate historical and cultural influences on theatre;

(C) identify the impact of live theatre, film, television, and electronic media on contemporary society;

(D) appreciate the cultural heritages of world drama and theatre and identify key figures, works, and trends in dramatic literature;

(E) appreciate the multicultural heritage of United States drama and theatre and identify key figures, works, and trends in dramatic literature; and

(F) identify and appreciate the innovations and contributions of the United States to the performing arts such as theatre, melodrama, musical theatre, radio, film, television, technology, or electronic media.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) analyze and apply appropriate behavior at various types of live performances;

(B) recognize theatre as an art form and evaluate self as a creative being;

(C) offer and receive constructive criticism of peer performances;

(D) evaluate live theatre in written and oral form with precise and specific observations using appropriate evaluative theatre vocabulary such as intent, structure, effectiveness, and value;

(E) evaluate film, television, or other media in written or oral form with precise and specific observations using appropriate evaluative theatre vocabulary such as intent, structure, effectiveness, and value;

(F) explore career and avocational opportunities such as theatre education, arts administration, performance, design, management, and playwriting in theatre or media and evaluate the training, skills, self-discipline, and artistic discipline needed to pursue such opportunities;

(G) use technology such as electronic portfolios, research projects, and journals to document and present information in a clear and coherent manner; and

(H) connect theatre skills and experiences to higher education and careers outside of the theatre.

§117.316. Theatre, Level II, Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following theatre courses: Theatre Arts II, Theatre and Media Communications II (one credit per course), and Theatre Production II (one-half to one credit). The prerequisite for each Theatre, Level II course is one credit of Theatre, Level I in the corresponding discipline.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Through diverse forms of storytelling and production, students will exercise and develop creativity, intellectual curiosity, critical thinking, problem solving, and collaborative skills. Participation and evaluation in a variety of theatrical experiences will afford students opportunities to develop an understanding of self and their role in the world.

(4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) develop and practice theatre warm-up techniques;

(B) develop and practice stage movement techniques consistently to express thoughts, feelings, and actions non-verbally;

(C) demonstrate effective voice and diction;

(D) analyze dramatic structure and genre;

(E) identify examples of theatrical conventions in theatre, film, television, and electronic media;

and
(F) relate the interdependence of all theatrical elements;

(G) develop and practice memorization skills.

(2) Creative expression: performance. The student interprets characters using the voice and body expressively and creates dramatizations. The student is expected to:

(A) model safe, appropriate techniques to allow for physical, vocal, and emotional expression;

(B) explore creativity as it relates to self and ensemble;

(C) demonstrate effective voice and diction to express thoughts and feelings;

(D) apply physical, intellectual, emotional, and social interactions to portray believable characters and convey a story when applying acting concepts, skills, and techniques;

(E) develop physical techniques consistently to express thoughts, feelings, and actions non-verbally; and

(F) create, write, devise, and refine original monologues, improvisations, scenes, or vignettes to convey meaning to the audience through live performance or media forms.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) develop and practice safe and effective stagecraft skills;

(B) read and analyze cultural, social, and political aspects of a script to determine technical elements;

(C) analyze characters, themes, duties, and elements of a script to determine artistic roles and technical assignments;

(D) perform a role such as actor, director, designer, technician, or editor in production decision making and collaborate with others to tell a story through live theatre or media performance; and

(E) develop responsibility, artistic discipline, and creative problem solving by concentrating in one or more areas of theatre production such as acting, technical theatre, or theatre management.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) analyze historical and cultural influences on theatre;

(B) analyze ways in which theatre, television, and film play a role in our daily lives and influence our values and behaviors;

(C) analyze and evaluate the impact of live theatre, film, television, and electronic media in contemporary society;

(D) research the influences of world drama and theatre and identify key figures, works, and trends in dramatic literature;

(E) research the influences of the multicultural heritage of drama and theatre in the United States and identify key figures, works, and trends in dramatic literature; and

(F) identify and appreciate the innovations and contributions of the United States to the performing arts such as theatre, melodrama, musical theatre, radio, film, television, technology, or electronic media.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) evaluate and apply appropriate audience etiquette at various types of performances;

(B) analyze theatre as an art form and evaluate self as a creative being;

(C) offer and receive constructive criticism of peer performances;

(D) evaluate the treatment of artistic elements such as theme, character, setting, and action in theatre, musical theatre, dance, art, music, or other media and integrate more than one art form in informal presentations;

(E) examine career and avocational opportunities such as theatre education, arts administration, performance, design, management, and playwriting in theatre or other media and evaluate the training, skills, self-discipline, and artistic discipline needed to pursue such opportunities;

(F) use technology such as portfolios, research projects, and journals to document and present information in a clear and coherent manner; and

(G) connect theatre skills and experiences to higher education and careers outside of the theatre.

§117.317. Theatre, Level III, Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following theatre courses: Theatre III (one credit), Theatre Production III (one-half to one credit), Playwriting I, Directing I, International Baccalaureate (IB) Theatre, Standard Level (SL), and IB Theatre, Higher Level (HL) (one credit per course). The prerequisite for IB Theatre SL and IB Theatre HL is one credit of any Theatre, Level II course. The prerequisite for all other Theatre, Level III courses is one credit of Theatre, Level II in the corresponding discipline.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the

critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Through diverse forms of storytelling and production, students will exercise and develop creativity, intellectual curiosity, critical thinking, problem solving, and collaborative skills. Participation and evaluation in a variety of theatrical experiences will afford students opportunities to develop an understanding of self and their role in the world.

(4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) apply theatre preparation and warm-up techniques effectively;

(B) experiment with stage movement;

(C) distinguish the proper techniques such as diction, inflection, and projection in the use of voice;

(D) analyze and evaluate dramatic structure and genre;

(E) distinguish between the theatrical conventions of theatre, film, television, and other media;

(F) evaluate the interdependence of all theatrical elements; and

(G) develop and practice memorization skills.

(2) Creative expression: performance. The student interprets characters using the voice and body expressively and creates dramatizations. The student is expected to:

(A) employ safe, appropriate techniques to allow for physical, vocal, and emotional expression;

(B) analyze creativity as it relates to self and ensemble and its effect on audience;

(C) analyze characters from various genres and styles, describing physical, intellectual, emotional, and social dimensions;

(D) experiment with improvisation and scripted scenes of various styles to portray believable characters;

(E) write dialogue that reveals character motivation, advances plot, provides exposition, and reveals theme; and

(F) integrate two or more art or media forms in a performance.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) experiment with technical elements of theatre safely and effectively in improvisation or scripted scenes or plays;

(B) analyze and evaluate dramatic texts as a basis for technical discussions, considering themes, settings, times, literary styles, genres, and characters;

(C) cast and direct duet scenes;

(D) perform a role such as actor, director, designer, technician, or editor in production decision making and collaborate with others to tell a story through live theatre or media performance; and

(E) perform the role of actor, director, or technician, demonstrating responsibility, artistic discipline, and creative problem solving.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) evaluate historical and cultural influences on theatre;

(B) analyze ways in which theatre, television, and film play a role in our daily lives and influence our values and behaviors;

(C) employ and evaluate the impact of live theatre, film, television, and other media in contemporary society;

(D) research the influences of world drama and theatre and identify key figures, works, and trends in dramatic literature;

(E) research the influences of the multicultural heritage of drama and theatre in the United States and identify key figures, works, and trends in dramatic literature; and

(F) identify and appreciate the innovations and contributions of the United States to the performing arts such as theatre, melodrama, musical theatre, radio, film, television, technology, or electronic media.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) compare behavior at various types of performances and practice appropriate audience etiquette;

(B) recognize theatre as an art form and evaluate self as a creative being;

(C) apply the concepts of evaluation to performances and evaluate theatre, film, television, and other media with depth and complexity using appropriate vocabulary;

(D) compare communication methods of theatre with those of art, music, dance, and other media;

(E) make judgments about selected career and avocational opportunities such as theatre education, arts administration, performance, design, management, and playwriting in theatre, film, television, and other media and analyze the training, skills, self-discipline, and artistic discipline needed to pursue such opportunities;

(F) use technology such as portfolios, research projects, and journals to document and present information in a clear and coherent manner;

(G) relate theatre skills and experiences to higher education and careers outside of the theatre; and

(H) create a personal resume or portfolio of theatrical experience.

§117.318. Theatre, Level IV, Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following theatre courses: Theatre Arts IV (one credit), Theatre Production IV (one-half to one credit), Playwriting II, Directing II, International Baccalaureate (IB) Theatre, Standard Level (SL), and IB Theatre, Higher Level (HL) (one credit per course). The pre-

requisite for IB Theatre SL and IB Theatre HL is one credit of any Theatre, Level III course. The prerequisite for all other Theatre, Level IV courses is one credit of Theatre, Level III in the corresponding discipline.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Through diverse forms of storytelling and production, students will exercise and develop creativity, intellectual curiosity, critical thinking, problem solving, and collaborative skills. Participation and evaluation in a variety of theatrical experiences will afford students opportunities to develop an understanding of self and their role in the world.

(4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) create and demonstrate theatre preparation and warm-up techniques;

(B) devise and model stage movement;

(C) model proper techniques such as diction, inflection, and projection in the use of effective voice;

(D) compare the structure of theatre to that of film, television, and other media;

(E) evaluate theatrical conventions of various cultural and historical periods;

(F) evaluate the interdependence of all theatrical elements; and

(G) develop and model memorization skills.

(2) Creative expression: performance. The student interprets characters using the voice and body expressively and creates dramatizations. The student is expected to:

(A) model safe, appropriate techniques to allow for physical, vocal, and emotional expression;

(B) demonstrate creativity as it relates to self and ensemble and its effect on audience;

(C) analyze and interpret characters from various genres and styles, describing physical, intellectual, emotional, and social dimensions;

(D) interpret scripted scenes of various styles to portray believable characters; and

(E) create individually or devise collaboratively imaginative scripts and scenarios.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) experiment with the technical elements of theatre safely and effectively in improvisation or scripted scenes or plays;

(B) analyze and evaluate dramatic texts and direct brief scenes;

(C) demonstrate understanding of a director's responsibility to the author's intent, script, actors, designers, technicians, and audience;

(D) analyze production plans that include research, rehearsal plans, technical designs, and blocking;

(E) demonstrate leadership by casting and directing a long scene or a short play, producing a unified theatrical production; and

(F) apply expertise in one or more areas of theatre production, demonstrating responsibility, artistic discipline, and creative problem solving.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) evaluate historical and cultural influences on theatre;

(B) analyze ways in which theatre, television, and film play a role in our daily lives and influence our values and behaviors;

(C) employ and evaluate the impact of live theatre, film, television, and other media in contemporary society;

(D) research the influences of world drama and theatre and identify key figures, works, and trends in dramatic literature;

(E) research the influences of the multicultural heritage of drama and theatre in the United States and identify key figures, works, and trends in dramatic literature; and

(F) identify and appreciate the innovations and contributions of the United States to the performing arts such as theatre, melodrama, musical theatre, radio, film, television, technology or electronic media.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) evaluate and practice appropriate audience behavior at various types of performances;

(B) defend theatre as an art form and value self as a creative being;

(C) apply evaluation concepts to performances, and compare and contrast literary and dramatic criticism of theatre, film, television, or other media;

(D) compare and contrast the elements and communication methods of theatre, film, music, art, dance, or other media in a specific culture or historical period;

(E) evaluate selected career and avocational opportunities such as theatre education, arts administration, performance, design, management, playwriting, and dramatic criticism in theatre, film, television, and other media and analyze the training, skills, self-discipline, and artistic discipline needed to pursue such opportunities;

(F) employ technology such as portfolios, research projects, and journals to communicate and present findings in a clear and coherent manner;

(G) appraise personal theatre skills and experiences to opportunities in higher education and careers outside of the theatre; and

(H) create a personal resume or portfolio of theatrical experience.

§117.319. Musical Theatre, Level I (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing Musical Theatre, Level I (one credit). Prerequisite suggested in two of the following disciplines: theatre, dance, or music or by audition.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry

and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Musical Theatre will expose students to a wide range of on-stage performance disciplines, including acting performance, vocal performance, and dance performance. The course will also provide an atmosphere in which students benefit from a teaching and learning experience in these performance disciplines of musical theatre. Students will receive comprehensive and rigorous instruction so that they may make informed choices about the craft, college, and the profession. The course will enhance and cultivate the creative gifts of each student while encouraging a sense of self-confidence. The course will enable students to study and perform the varied styles of musical theatre with special attention to the principles of stage movement, stage vocal technique, stage choreography, acting, characterization, and other aspects of a musical production.

(4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama, dance, music, and the conventions of musical theatre. The student is expected to:

(A) develop and practice theatrical, dance, and vocal music preparation and warm-up techniques;

(B) recognize stage movement, pantomime, and dance skills in various genres such as ballet, tap, jazz, ballroom, and Broadway;

(C) identify acting techniques in song, dance, and spoken dialogue;

(D) recognize the professional audition process;

(E) compare the dramatic structure of musical theatre to musical film and musical television productions;

(F) define and give examples of the language of musical theatre such as stage terminology, elements of musical theatre, or theatrical conventions; and

(G) describe the interdependence of all theatrical elements.

(2) Creative expression: performance. The student interprets characters through acting, singing, and dance using voice and body expressively and creates dramatizations called for in a musical script. The student is expected to:

(A) identify appropriate safety measures in vocalization, dance movement, and theatrical movement;

(B) define creativity as it relates to personal expression in musical theatre;

(C) recognize characterization in musical theatre and scripts of various genres and styles;

(D) identify proper voice usage and correct vocal production skills such as vocal placement, vocal phrasing, vocal tone production, and vocal consistency in a performance situation; and

(E) interpret lyrics for characterization, vocalization, and dance.

(3) Creative expression: production. The student applies design, directing, choreography, and musical theatre production concepts and skills. The student is expected to:

(A) recognize safe and effective use of technical elements of musical theatre;

(B) identify the responsibilities of the director, musical director, and choreographer to the composer and librettist's intent;

(C) recognize musical production plans such as rehearsal plans, technical designs, blocking, choreography, and solo and ensemble musical numbers; and

(D) perform a role and collaborate with others to tell a story through live musical theatre or media performance.

(4) Historical and cultural relevance. The student relates musical theatre to history, society, and culture. The student is expected to:

(A) study historical and cultural influences on musical theatre;

(B) identify the historical development of musical theatre as a uniquely American art form;

(C) identify historical and cultural developments in musical theatre;

(D) identify the contemporary development of musical theatre as an international art form such as new composers and their composition styles, multicultural influences, practices and principles of contemporary musical theatre, advances in the creation of contemporary or popular musical theatre, and impact of musical theatre on the world's economic and performing arts scene;

(E) appreciate musical theatre as a reflection of life in particular times, places, and cultures; and

(F) recognize the influences of musical theatre forms such as theatre, television, and film on past and present society.

(5) Critical evaluation and response. The student responds to and evaluates musical theatre performances. The student is expected to:

(A) analyze and apply appropriate audience behavior at various types of performances;

(B) recognize musical theatre as an art form and evaluate self as a creative being;

(C) offer and receive constructive criticism of peer performances;

(D) evaluate musical theatre in written and oral form with precise and specific observations on intent, structure, effectiveness, and value using appropriate evaluative theatre vocabulary;

(E) explore career and avocational opportunities in musical theatre, musical film, and musical television, justifying choice(s) and analyze the training, skills, self-discipline, and artistic discipline needed for success;

(F) connect musical theatre skills and experiences to higher education and careers outside of the theatre; and

(G) recognize the value of presenting information in a clear and coherent manner using technology in a resume or portfolio format.

§117.320. Musical Theatre, Level II (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing Musical Theatre, Level II (one credit). A suggested prerequisite is Musical Theatre, Level I or by audition.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Musical Theatre will expose students to a wide range of on-stage performance disciplines, including acting performance, vocal performance, and dance performance. The course will also provide an atmosphere in which students benefit from a teaching and learning experience in these performance disciplines of musical theatre. Students will receive comprehensive and rigorous instruction so that they may make informed choices about the craft, college, and the profession. The course will enhance and cultivate the creative gifts of each student while encouraging a sense of self-confidence. The course will enable students to study and perform the varied styles of musical theatre with special attention to the principles of stage movement, stage vocal technique, stage choreography, acting, characterization, and other aspects of a musical production.

(4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama, dance, music, and the conventions of musical theatre. The student is expected to:

(A) develop and practice theatrical, dance, and vocal music preparation and warm-up techniques;

(B) develop stage movement, pantomime, and dance skills in various genres such as ballet, tap, jazz, ballroom, and Broadway;

(C) develop acting techniques in song, dance, and spoken dialogue;

(D) develop professional audition techniques such as musical selections, monologue performance, dance and movement, and the relationship between accompanist and performer;

(E) analyze the dramatic structure of musical theatre;

(F) employ the language of musical theatre such as stage terminology, elements of musical theatre, or theatrical conventions;

(G) analyze a character from a libretto, describing physical, intellectual, emotional, and social dimensions; and

(H) collaborate with all artistic partners such as playwrights, composers, directors, musical directors, choreographers, actors, designers, technicians, and audience.

(2) Creative expression: performance. The student interprets characters through acting, singing, and dance using voice and body expressively and creates dramatizations called for in a musical script. The student is expected to:

(A) apply appropriate safety measures in vocalization, dance movement, and theatrical movement;

(B) explore creativity as it relates to self and ensemble in musical theatre;

(C) analyze characterization in musical theatre styles;

(D) apply proper voice usage and correct vocal production skills such as vocal placement, vocal phrasing, vocal tone production, and vocal consistency in a performance situation;

(E) analyze lyrics for characterization, vocalization, and dance;

(F) create and sustain believable characters through characterization, vocalization, and dance; and

(G) compose material related to musical theatre such as monologues, scenes, lyrics, or choreography to convey meaning to the audience through live performance or other media forms.

(3) Creative expression: production. The student applies design, directing, choreography, and musical theatre production concepts and skills. The student is expected to:

(A) apply safe and effective use of technical elements of musical theatre;

(B) analyze the responsibilities of the director, musical director, and choreographer to the composer and librettist's intent;

(C) analyze musical production plans such as research, rehearsal plans, technical designs, blocking, choreography, and solo and ensemble musical numbers;

(D) demonstrate responsibility and creative problem solving in one or more areas of musical theatre production such as acting, technical theatre, and theatre management; and

(E) collaborate with others to perform a role such as actor, director, designer, technician, and editor in a musical theatre or musical media production.

(4) Historical and cultural relevance. The student relates musical theatre to history, society, and culture. The student is expected to:

(A) analyze historical and cultural influences on musical theatre;

(B) investigate the historical development of musical theatre as a uniquely American art form;

(C) investigate historical and cultural developments in musical theatre;

(D) investigate the contemporary development of musical theatre such as new composers and their composition styles, multicultural influences, practices and principles of contemporary musical theatre, advances in the creation of contemporary or popular musical theatre, and impact of musical theatre on the world's economic and performing arts scene as an international art form;

(E) depict musical theatre as a reflection of life in particular times, places, and cultures; and

(F) relate the influences of musical theatre forms such as theatre, television, and film on past and present society.

(5) Critical evaluation and response. The student responds to and evaluates musical theatre performances. The student is expected to:

(A) evaluate and practice appropriate audience behavior at various types of performances;

(B) describe musical theatre as an art form and evaluate self as a creative being;

(C) appraise self and peer performance with constructive criticism;

(D) evaluate musical theatre in written and oral form with precise and specific observations on intent, structure, effectiveness, and value using appropriate evaluative theatre vocabulary;

(E) evaluate the interdependence of all musical theatre elements such as dramatic spoken text, vocalized text, dance, costuming, set design, lighting, and sound;

(F) evaluate career and avocational opportunities in musical theatre, musical film, and musical television, justifying choice(s), and analyze the training, skills, self-discipline, and artistic discipline needed for success;

(G) relate musical theatre skills and experiences to higher education and careers outside of the theatre; and

(H) document and present information in a clear and coherent manner using technology in a resume or portfolio format.

§117.321. Musical Theatre, Level III (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing Musical Theatre, Level III (one credit). A suggested prerequisite is Musical Theatre, Level II or by audition.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Musical Theatre will expose students to a wide range of on-stage performance disciplines, including acting performance, vocal performance, and dance performance. The course will also provide an atmosphere in which students benefit from a teaching and learning experience in these performance disciplines of musical theatre. Students will receive comprehensive and rigorous instruction so that they may make informed choices about the craft, college, and the profession. The course will enhance and cultivate the creative gifts of each student while encouraging a sense of self-confidence. The course will enable students to study and perform the varied styles of musical theatre with special attention to the principles of stage movement, stage vocal technique, stage choreography, acting, characterization, and other aspects of a musical production.

(4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama, dance, music, and the conventions of musical theatre. The student is expected to:

(A) create theatrical, dance, and vocal music preparation and warm-up techniques;

(B) develop stage movement, pantomime, and dance skills in various genres such as ballet, tap, jazz, ballroom, and Broadway;

(C) develop acting techniques in song, dance, and spoken dialogue;

(D) model professional audition techniques such as musical selection, monologue performance, dance and movement, and the relationship between accompanist and performer;

(E) analyze the dramatic structure of musical theatre;

(F) perform a character from a musical incorporating physical, intellectual, and emotional dimensions;

(G) collaborate effectively with all artistic partners in a musical theatre production; and

(H) employ the language of musical theatre such as stage terminology, elements of musical theatre, or theatrical conventions.

(2) Creative expression: performance. The student interprets characters through acting, singing, and dance using voice and

body expressively and creates dramatizations called for in a musical script. The student is expected to:

(A) apply appropriate safety measures in vocalization, dance movement, and theatrical movement;

(B) appraise creativity as it relates to self and ensemble in musical theatre;

(C) create and sustain believable characters through acting, singing, and dancing;

(D) model proper voice usage and correct vocal production skills such as vocal placement, vocal phrasing, vocal tone production, and vocal consistency in a performance situation;

(E) analyze lyrics of a song as a monologue, dialogue, or ensemble scene for interpretation, characterization, vocalization, and dance; and

(F) collaborate to produce material related to musical theatre such as monologues, scenes, lyrics, or choreography to convey meaning to the audience through live performance or other media forms.

(3) Creative expression: production. The student applies design, directing, choreography, and musical theatre production concepts and skills. The student is expected to:

(A) model safe and effective use of technical elements of musical theatre;

(B) create musical production plans such as rehearsal plans, technical designs, blocking, choreography, and solo and ensemble musical numbers;

(C) demonstrate responsibility and creative problem solving as a leader in one or more areas of musical theatre or musical media production such as actor, director, choreographer, and musical director; and

(D) collaborate with others to perform a role such as actor, director, choreographer, designer, technician, and editor in a musical theatre or musical media production.

(4) Historical and cultural relevance. The student relates musical theatre to history, society, and culture. The student is expected to:

(A) articulate historical and cultural influences and developments on musical theatre;

(B) examine the historical development of musical theatre as a uniquely American art form;

(C) experiment with contemporary forms of musical theatre such as new composers and their composition styles, multicultural styles, practices and principles of contemporary musical theatre, and popular musical theatre;

(D) defend musical theatre as a reflection of life in particular times, places, and cultures; and

(E) articulate the influences of musical theatre forms such as theatre, television, and film on past and present society.

(5) Critical evaluation and response. The student responds to and evaluates musical theatre performances. The student is expected to:

(A) model appropriate audience behavior at various types of performances;

(B) defend musical theatre as a creative art form and evaluate self as a creative being;

(C) evaluate the interdependence of all musical theatre elements such as dramatic spoken text, vocalized text, dance, costuming, set design, lighting, and sound;

(D) evaluate self and peer performance using constructive criticism;

(E) discuss musical theatre, musical film, or other musical media using precise musical theatre vocabulary;

(F) experiment with a career opportunity in musical theatre, musical film, or other musical media and analyze the training, skills, self-discipline, and artistic discipline needed for personal success;

(G) relate musical theatre skills and experiences to higher education and careers outside of the theatre; and

(H) document and present information in a clear and coherent manner using technology in a resume or portfolio format.

§117.322. Musical Theatre, Level IV (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing Musical Theatre, Level IV (one credit). A suggested prerequisite is Musical Theatre, Level III or by audition.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Musical Theatre will expose students to a wide range of on-stage performance disciplines, including acting performance, vocal performance, and dance performance. The course will also provide an atmosphere in which students benefit from a teaching and learning experience in these performance disciplines of musical theatre. Students will receive comprehensive and rigorous instruction so that they

may make informed choices about the craft, college, and the profession. The course will enhance and cultivate the creative gifts of each student while encouraging a sense of self-confidence. The course will enable students to study and perform the varied styles of musical theatre with special attention to the principles of stage movement, stage vocal technique, stage choreography, acting, characterization, and other aspects of a musical production.

(4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama, dance, music, and the conventions of musical theatre. The student is expected to:

(A) create and lead theatrical, dance, and vocal music preparation and warm-up techniques;

(B) arrange stage movement in a musical theatre performance;

(C) choreograph various dance genres such as ballet, tap, jazz, ballroom, and Broadway in a musical theatre performance;

(D) develop effective use of voice and diction in spoken dialogue to effectively express thoughts, feelings, and actions;

(E) develop appropriate singing technique in vocalized solo and ensemble repertoire to effectively express thoughts, feelings, and actions;

(F) model professional audition techniques such as musical selection, monologue performance, dance and movement, and the relationship between accompanist and performer;

(G) perform a multi-dimensional character from a musical incorporating singing, dancing, and acting; and

(H) collaborate effectively with all artistic partners in a musical theatre production.

(2) Creative expression: performance. The student interprets characters through acting, singing, and dance using voice and body expressively and creates dramatizations called for in a musical script. The student is expected to:

(A) model appropriate safety measures in vocalization, dance movement, and theatrical movement;

(B) defend creativity as it relates to self and ensemble in musical theatre;

(C) analyze characterization in musical theatre styles;

(D) model proper voice usage and correct vocal production skills such as vocal placement, vocal phrasing, vocal tone production, and vocal consistency in a performance situation;

(E) analyze lyrics of a song as a monologue, dialogue, or ensemble scene for interpretation, characterization, and physicalization;

(F) create and sustain believable characters through acting, singing, and dancing; and

(G) collaborate to produce material related to musical theatre such as monologues, scenes, lyrics, or choreography to convey meaning to the audience through live performance or other media forms.

(3) Creative expression: production. The student applies design, directing, choreography, and musical theatre production concepts and skills. The student is expected to:

(A) model safe and effective use of technical elements of musical theatre;

(B) create musical production plans such as research, rehearsal plans, technical designs, blocking, choreography, and solo and ensemble musical numbers; and

(C) cast and direct a musical theatre or musical media production.

(4) Historical and cultural relevance. The student relates musical theatre to history, society, and culture. The student is expected to:

(A) conduct concentrated studies on historical and cultural influences on and developments in musical theatre;

(B) justify musical theatre as an original American art form;

(C) depict musical theatre as a reflection of life in particular times, places, and cultures; and

(D) defend the influences of musical theatre forms such as theatre, television, and film on past and present society.

(5) Critical evaluation and response. The student responds to and evaluates musical theatre performances. The student is expected to:

(A) evaluate and practice appropriate audience behavior at various types of performances;

(B) defend musical theatre as a creative art form;

(C) compare the nature of musical theatre elements to other musical media;

(D) appraise self and peer performance using constructive criticism;

(E) evaluate musical theatre, musical film, or other musical media using precise musical theatre vocabulary;

(F) experiment with a career opportunity in musical theatre, musical film, or other musical media and analyze the training, skills, self-discipline, and artistic discipline needed for personal success;

(G) relate musical theatre skills and experiences to higher education and careers outside of the theatre; and

(H) document and present information in a clear and coherent manner using technology to build a resume or portfolio.

§117.323. Technical Theatre, Level I (One Credit), Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing Technical Theatre, Level I.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace envi-

ronments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Through a variety of experiences with diverse forms of storytelling and production, Technical Theatre I will afford students the opportunity to develop and exercise creativity, intellectual curiosity, critical thinking, problem solving, and collaborative skills. Participation and evaluation in a variety of theatrical experiences will afford students opportunities to develop an understanding of self and their role in the world.

(4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) define standard vocabulary in costumes, lights, makeup, theatre management, properties, scenery, and sound;

(B) recognize the technical elements of theatre such as types of stages, stage areas, fly systems, curtains, front of house, dressing rooms, and storage;

(C) recognize theatre systems such as the production calendar, tech rehearsals, and production staff roles;

(D) recognize safe theatre practices such as personal safety, fire safety, tool safety, shop safety, and handling emergencies in the theatre; and

(E) read scripts and apply basic script analysis techniques to technical theatre elements.

(2) Creative expression: performance. The student develops and demonstrates technical theatre skills through the pre-production processes from concept (script or original idea) to performance. The student is expected to:

(A) recognize the function of technical elements in various theatrical styles and genres;

(B) recognize the design process of analysis, research, incubation/selection, implementation, and evaluation to a theatrical product such as a rendering, model, and sketch;

(C) identify the production team such as designers, director, crew members, playwright, and stage manager and their duties;

(D) articulate the importance of collaboration and leadership skills;

(E) define creativity as it relates to personal expression in technical theatre and design;

(F) recognize communication methods between directors and designers such as prompt book, costume plot, light plot, makeup, theatre management, property list, design renderings, and models; and

(G) apply the basic skills of measurement in construction.

(3) Creative expression: production. The student applies design, directing, and theatre production concepts and skills. The student is expected to:

(A) identify the safe use of tools and materials in scenery and property construction;

(B) identify the safe use of lighting equipment such as instruments, dimmers, and controllers;

(C) identify the safe use of the basic techniques of costume construction and make-up application;

(D) identify the safe use of sound equipment; and

(E) recognize the roles of theatre management such as house management and stage management.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) conduct research to establish historical and cultural accuracy in theatrical design;

(B) identify the impact of live theatre, film, television, and electronic media on contemporary society;

(C) understand the cultural heritage of world drama and theatre and identify key figures, works, and trends in dramatic literature; and

(D) identify and understand the innovations and contributions of the United States to the performing arts such as theatre, melodrama, musical theatre, radio, film, television, technology, or electronic media.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) understand the use of resumes and portfolios in technical theatre;

(B) recognize appropriate behavior at various types of live performances;

(C) recognize the design and technical elements of theatre as an art form and evaluate self as a creative being;

(D) evaluate live theatre in written and oral form with precise and specific observations of technical elements using appropriate vocabulary;

(E) evaluate film, television, or other media in written or oral form with precise and specific observations of technical elements using appropriate vocabulary;

(F) connect theatre skills and experiences to higher education and careers; and

(G) use technology to communicate and present findings in a clear and coherent manner.

§117.324. Technical Theatre, Level II, Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following theatre courses: Technical Theatre, Level II (one credit), Lighting and Sound (one-half to one credit), Stagecraft, Costume Construction (one-half to one credit), Makeup for the Theatre (one-half to one credit), Design for the Theatre (one-half to one credit), and Theatre Management (one-half to one credit). Technical Theatre, Level I is suggested as a prerequisite for Technical Theatre, Level II courses.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Through a variety of experiences with technical theatre, Technical Theatre II will afford students the opportunity to continue to study and develop their knowledge of technical theatre arts on a more challenging level. Students explore and apply a myriad of technical theatre concepts and skills. Students will exercise and develop creativity, intellectual curiosity, critical thinking, problem solving, and collaborative skills. Participation and evaluation in a variety of theatrical experiences will afford students opportunities to develop an understanding of self and their role in the world.

(4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the world using

elements of drama and conventions of theatre. The student is expected to:

(A) demonstrate proper use of standard vocabulary in costumes, lights, makeup, theatre management, properties, scenery, and sound;

(B) identify the technical elements of theatre such as types of stages, stage areas, fly systems, curtains, front of house, dressing rooms, and storage;

(C) use established theatre systems such as the production calendar, tech rehearsals, and production staff roles;

(D) use safe theatre practices such as personal safety, fire safety, tool safety, shop safety, and handling emergencies in the theatre; and

(E) read and analyze scripts to determine technical theatre elements.

(2) Creative expression: performance. The student develops and demonstrates technical theatre skills through the pre-production processes from concept (script or original idea) to performance. The student is expected to:

(A) identify and use technical elements in various theatrical styles and genres;

(B) apply the design process, including analysis, research, incubation/selection, implementation, and evaluation, to a theatrical product such as a rendering, model, and sketch;

(C) recognize the principles of design, including lines, shape, mass, measure, position, color, and texture;

(D) recognize the principles of composition, including unity, harmony, contrast, variation, balance, proportion, and emphasis;

(E) recognize the elements of color in design such as color theory, the science of color and light, and the color palette;

(F) demonstrate understanding of communication methods between directors and designers such as prompt book, costume plot, light plot, makeup, theatre management, property list, design renderings, and models; and

(G) practice proper measurement and scale as applied to design or construction.

(3) Creative expression: production. The student focuses on a specific area of technical theatre production concepts and skills. The student demonstrates an understanding of and skills in scenery, props, lighting, costumes and makeup, sound, or theatre management. The student is expected to:

(A) identify and safely use technical theatre tools, equipment, and materials;

(B) develop theatre production skills by:

(i) building scenery such as two-dimensional flats and three-dimensional stairs;

(ii) building or pulling and altering costumes using safe costume construction techniques;

(iii) hanging and focusing lighting instruments and using dimmers and controllers;

(iv) identifying electrical theory and practice as it applies to theatrical lighting;

(v) recording, editing, or creating sound effects;

(vi) identifying marketing products for theatrical productions;

(vii) practicing stage management techniques such as build a promptbook, call cues, and record blocking;

(viii) identifying and applying scenic painting techniques; or

(ix) identifying and applying stage properties practices such as buy, borrow, build, and organize; and

(C) read and interpret technical theatre documents such as light plots, costume plots, renderings, ground plans, and cue sheets.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) apply historical or cultural accuracy from research in theatrical design;

(B) analyze the impact of live theatre, film, television, and electronic media on contemporary society;

(C) analyze the cultural heritages of world drama and theatre and identify key figures, works, and trends in technical theatre;

(D) explain the historical development, discoveries, and periods in theatre architecture and stage technology influences such as Latin American marionettes, Greek amphitheater, Asian Noh and Kabuki theatre, Italian Renaissance innovation, and Indian puppet theatre and their influences on modern theatre;

(E) illustrate how technology has changed theatre such as how stage lighting has progressed from limelight to digital light;

(F) understand the multicultural heritage of United States drama and theatre and identify key figures, works, and trends in technical theatre; and

(G) identify and understand the innovations and contributions of the United States to the performing arts such as theatre, melodrama, musical theatre, radio, film, television, technology, or electronic media.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) compile materials to construct a resume and portfolio of works created in technical theatre;

(B) analyze and apply appropriate behavior of technical staff at various types of live performances;

(C) recognize the design and technical elements of theatre as an art form and evaluate self as a creative being;

(D) offer and receive constructive criticism of designs or construction projects by peers and self;

(E) evaluate live theatre in written and oral form with precise and specific observations of technical elements using appropriate vocabulary;

(F) evaluate film, television, or other media in written or oral form with precise and specific observations of technical elements using appropriate vocabulary;

(G) explore career and avocational opportunities in theatre, television, film, or industries such as design, construction, management, theatre education, and arts administration and evaluate the training, skills, self-discipline, and artistic discipline needed to pursue such opportunities;

(H) connect theatre skills and experiences to higher education and careers outside of the theatre; and

(I) use technology to communicate and present findings in a clear and coherent manner.

§117.325. Technical Theatre, Level III, Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following technical theatre courses: Technical Theatre, Level III (one credit), Advanced Lighting and Sound (one-half to one credit), Advanced Stagecraft (one-half to one credit), Advanced Costume Construction (one-half to one credit), Makeup for the Theatre (one-half to one credit), Advanced Design for the Theatre (one-half to one credit), and Advanced Theatre Management (one-half to one credit). A Technical Theatre, Level II course is suggested as a prerequisite for Technical Theatre, Level III courses.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Through a variety of experiences with technical theatre, Technical Theatre III will afford students the opportunity to continue to study and develop their knowledge of technical theatre arts on a more challenging level. Students explore and apply a myriad of technical theatre concepts and skills. Students will exercise and develop creativity, intellectual curiosity, critical thinking, problem solving, and collaborative skills. Participation and evaluation in a variety of theatrical experiences will afford students opportunities to develop an understanding of self and their role in the world.

(4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the world using

elements of drama and conventions of theatre. The student is expected to:

(A) demonstrate proper use of standard vocabulary in costumes, lights, makeup, theatre management, properties, scenery, and sound;

(B) demonstrate a working knowledge of the technical elements of theatre such as types of stages, stage areas, fly systems, curtains, front of house, dressing rooms, and storage;

(C) create and use established theatre systems such as the production calendar, tech rehearsals, and production staff roles;

(D) use and model safe theatre practices such as personal safety, fire safety, tool safety, shop safety, and handling emergencies in the theatre; and

(E) read scripts and apply basic script analysis techniques to technical theatre elements.

(2) Creative expression: performance. The student develops and demonstrates technical theatre skills through the pre-production processes from concept (script or original idea) to performance. The student is expected to:

(A) identify and use technical elements in various theatrical styles and genres;

(B) apply the design process, including analysis, research, incubation/selection, implementation, and evaluation, to a theatrical product such as a rendering, model, or sketch;

(C) apply the principles of design, including lines, shape, mass, measure, position, color, and texture;

(D) apply the principles of composition, including unity, harmony, contrast, variation, balance, proportion, and emphasis;

(E) apply the elements of color in design such as color theory, the science of color and light, and the color palette;

(F) manage and work collaboratively with the production team such as designers, director, crew members, playwright, and stage manager;

(G) defend the importance of collaboration and leadership skills;

(H) develop creativity as it relates to personal expression in technical theatre and design;

(I) interpret technical theatre documents used by directors and designers to communicate such as costume plot, light plot, makeup chart, prompt book, property list, design renderings, and models; and

(J) practice the basics of measurement and scale applied to drafting, design, or construction.

(3) Creative expression: production. The student focuses on a specific area of technical theatre production concepts and skills. The student demonstrates an understanding of and skills in scenery, props, lighting, costumes and makeup, sound, or theatre management. The student is expected to:

(A) identify and safely use specialized tools and materials in technical theatre;

(B) develop theatre production skills by:

(i) demonstrating design and building techniques of scenery;

(ii) designing and building or pulling and altering costumes;

(iii) designing lighting and using electrical theory and practice as it applies to theatrical lighting;

(iv) demonstrating an understanding of the physics of acoustics and sound through the design of sound;

(v) designing marketing products for theatrical productions;

(vi) demonstrating stage management techniques such as build a promptbook, call cues, and record blocking;

(vii) implementing and refining scenic painting techniques; or

(viii) designing stage properties;

(C) identify various production roles in all technical areas such as designer, master carpenter, draper, cutter, and master electrician; and

(D) create and interpret technical theatre documents such as light plots, costume plots, renderings, ground plans, and cue sheets.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) demonstrate a working knowledge of historical or cultural accuracy from research in theatrical design;

(B) synthesize the impact of live theatre, film, television, and electronic media on contemporary society;

(C) synthesize the cultural heritages of world drama and theatre and identify key figures, works, and trends in dramatic literature;

(D) demonstrate a working knowledge of the historical development, discoveries, and periods in theatre architecture and stage technology such as Latin American marionettes, Greek amphitheater, Asian Noh and Kabuki theatre, Italian Renaissance innovation, and Indian puppet theatre and their influences on modern theatre;

(E) illustrate how technology has changed theatre such as how stage lighting has progressed from limelight to digital light;

(F) analyze the multicultural heritage of United States drama and theatre and identify key figures, works, and trends in dramatic literature; and

(G) demonstrate a working knowledge of the innovations and contributions of the United States to the performing arts such as theatre, melodrama, musical theatre, radio, film, television, technology, or electronic media.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) construct a resume and portfolio of works created in technical theatre;

(B) demonstrate appropriate behavior of technical staff at various types of live performances;

(C) apply the design and technical elements of theatre as an art form and evaluate self as a creative being;

(D) offer and receive constructive criticism of designs or construction projects by peers and self;

(E) evaluate live theatre in written and oral form with precise and specific observations of technical elements using appropriate vocabulary;

(F) evaluate film, television, or other media in written or oral form with precise and specific observations of technical elements using appropriate vocabulary;

(G) articulate career and avocational opportunities in theatre, television, film, or industries such as design, construction, management, theatre education, and arts administration and evaluate the training, skills, self-discipline, and artistic discipline needed to pursue such opportunities;

(H) articulate connections in theatre skills and experiences to higher education and careers outside of the theatre; and

(I) use technology to communicate and present findings in a clear and coherent manner.

§117.326. Technical Theatre, Level IV, Adopted 2013.

(a) General requirements. Students may fulfill fine arts and elective requirements for graduation by successfully completing one or more of the following technical theatre courses: Technical Theatre, Level IV, Advanced Lighting and Sound (one-half to one credit), Advanced Stagecraft (one-half to one credit), Advanced Costume Construction (one-half to one credit), Makeup for the Theatre (one-half to one credit), Advanced Design for the Theatre (one-half to one credit), and Advanced Theatre Management (one-half to one credit). A Technical Theatre, Level III course is suggested as a prerequisite for Technical Theatre, Level IV courses.

(b) Introduction.

(1) The fine arts incorporate the study of dance, music, theatre, and the visual arts to offer unique experiences and empower students to explore realities, relationships, and ideas. These disciplines engage and motivate all students through active learning, critical thinking, and innovative problem solving. The fine arts develop cognitive functioning and increase student academic achievement, higher-order thinking, communication, and collaboration skills, making the fine arts applicable to college readiness, career opportunities, workplace environments, social skills, and everyday life. Students develop aesthetic and cultural awareness through exploration, leading to creative expression. Creativity, encouraged through the study of the fine arts, is essential to nurture and develop the whole child.

(2) Four basic strands--foundations: inquiry and understanding, creative expression, historical and cultural relevance, and critical evaluation and response--provide broad, unifying structures for organizing knowledge and skills students are expected to acquire. Through the foundations: inquiry and understanding strand, students develop a perception of self, human relationships, and the world using elements of drama and conventions of theatre. Through the creative expression strand, students communicate in a dramatic form, engage in artistic thinking, build positive self-concepts, relate interpersonally, and integrate knowledge with other content areas in a relevant manner. Through the historical and cultural relevance strand, students increase their understanding of heritage and traditions in theatre and the diversity of world cultures as expressed in theatre. Through the critical evaluation and response strand, students engage in inquiry and dialogue, accept constructive criticism, revise personal views to promote creative and critical thinking, and develop the ability to appreciate and evaluate live theatre.

(3) Through a variety of experiences with technical theatre, Technical Theatre IV will afford students the opportunity to complete a more intense study of a specific area of technical theatre. Through more independent study and increased production responsibilities, study in

Technical Theatre IV involves the application of expertise prepared for and acquired in previous theatre art studies. Students explore and apply a myriad of technical theatre concepts and skills. Students will exercise and develop creativity, intellectual curiosity, critical thinking, problem solving, and collaborative skills. Participation and evaluation in a variety of theatrical experiences will afford students opportunities to develop an understanding of self and their role in the world.

(4) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) Foundations: inquiry and understanding. The student develops concepts about self, human relationships, and the environment using elements of drama and conventions of theatre. The student is expected to:

(A) demonstrate proper and regular use of standard vocabulary in costumes, lights, makeup, theatre management, properties, scenery, and sound;

(B) demonstrate a working knowledge of the technical elements of theatre such as types of stages, stage areas, fly systems, curtains, front of house, dressing rooms, and storage;

(C) use and create established theatre systems such as the production calendar, tech rehearsals, and production staff roles;

(D) use and model safe theatre practices such as personal safety, fire safety, tool safety, shop safety, and handling emergencies in the theatre; and

(E) read scripts and apply basic script analysis techniques to technical theatre elements.

(2) Creative expression: performance. The student develops and demonstrates technical theatre skills through the pre-production processes from concept (script or original idea) to performance. The student is expected to:

(A) analyze technical elements in various theatrical styles and genres;

(B) demonstrate creativity in the design of a theatrical product;

(C) demonstrate leadership skills in an area of the production team;

(D) model collaboration and leadership skills;

(E) model creativity as it relates to personal expression in technical theatre and design; and

(F) model communication methods between directors and designers such as prompt book, costume plot, light plot, makeup, theatre management, property list, design renderings, and models.

(3) Creative expression: production. The student focuses on a specific area of technical theatre production concepts and skills. The student is expected to demonstrate an understanding of and skills in scenery, props, lighting, costumes and makeup, sound, or theatre management. The student is expected to:

(A) model effective and safe use of tools and materials in scenery and property construction;

(B) develop skills to supervise safe construction of scenery;

(C) develop skills to supervise safe use of the basic techniques of costume construction and make-up application;

(D) develop skills to supervise safe use of lighting equipment such as instruments, dimmers, and controllers;

(E) develop skills to supervise safe use of sound equipment; and

(F) demonstrate an understanding of management skills in a theatre production such as house manager, stage manager, marketing manager, or producer.

(4) Historical and cultural relevance. The student relates theatre to history, society, and culture. The student is expected to:

(A) defend historical or cultural accuracy in theatrical design;

(B) articulate the impact of live theatre, film, television, and electronic media on contemporary society;

(C) articulate the impact of cultural heritages of world drama and theatre and identify key figures, works, and trends in technical theatre;

(D) articulate the impact of multicultural heritage of United States drama and theatre and identify key figures, works, and trends in technical theatre; and

(E) predict future innovations and contributions of the United States to the performing arts.

(5) Critical evaluation and response. The student responds to and evaluates theatre and theatrical performances. The student is expected to:

(A) use a resume and portfolio of works created in technical theatre;

(B) model appropriate behavior of technical staff at various types of live performances;

(C) defend the design and technical elements of theatre as an art form and evaluate self as a creative being;

(D) offer and receive constructive criticism of designs or construction projects by peers and self;

(E) evaluate live theatre in written and oral form with precise and specific observations of technical elements using appropriate vocabulary;

(F) evaluate film, television, or other media in written or oral form with precise and specific observations of technical elements using appropriate vocabulary;

(G) articulate career and avocational opportunities in theatre, television, film, or industries such as design, construction, management, theatre education, and arts administration and evaluate the training, skills, self-discipline, and artistic discipline needed to pursue such opportunities;

(H) articulate connections in theatre skills and experiences to higher education and careers outside of the theatre; and

(I) use technology to communicate and present findings in a clear and coherent manner.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300864

PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 231. ASSIGNMENT OF PUBLIC SCHOOL PERSONNEL

19 TAC §231.1

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the State Board for Educator Certification or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The State Board for Educator Certification (SBEC) proposes the repeal of §231.1, concerning criteria for assignment of public school personnel. The section proposed for repeal provides guidance to school districts with regard to the certificates required for specific assignments of public school educators.

The proposed repeal would be necessary as a result of the reorganization of the assignment chart codified in 19 TAC Chapter 231. The proposed repeal also results from the SBEC's rule review of 19 TAC Chapter 231 conducted in accordance with Texas Government Code, §2001.039. As a result of the reorganization, the SBEC proposes new 19 TAC Chapter 231, Subchapters A-H, which may be found in the Proposed Rules section of this issue.

The proposed repeal would have no procedural and reporting implications for school districts and educators. Also, the proposed repeal would have no locally maintained paperwork requirements for school districts and educators.

Michele Moore, associate commissioner for educator leadership and quality, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed repeal.

Ms. Moore has determined that for the first five-year period the proposed repeal is in effect the public and student benefit anticipated as a result of the proposed repeal would be updated requirements relating to the assignment of educators in Texas public schools. There are no additional costs to persons required to comply with the proposed repeal.

In addition, there is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to sbecrules@tea.state.tx.us or faxed to (512) 463-5337. All requests for a public hearing on the proposed repeal submitted under the Administrative Procedure Act must be received by the Department of Educator Leadership and Quality, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas

78701, Attention: Ms. Michele Moore, associate commissioner for educator leadership and quality, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register*.

The repeal is proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed repeal implements the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.1. Criteria for Assignment of Public School Personnel.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300818

Cristina De La Fuente-Valadez
Director, Rulemaking, Texas Education Agency
State Board for Educator Certification
Earliest possible date of adoption: April 7, 2013
For further information, please call: (512) 475-1497

CHAPTER 231. REQUIREMENTS FOR PUBLIC SCHOOL PERSONNEL ASSIGNMENTS

The State Board for Educator Certification (SBEC) proposes new §§231.1, 231.3, 231.5, 231.7, 231.9, 231.11, 231.13, 231.15, 231.17, 231.19, 231.21, 231.23, 231.25, 231.27, 231.29, 231.41, 231.43, 231.45, 231.47, 231.49, 231.51, 231.53, 231.55, 231.57, 231.59, 231.61, 231.63, 231.65, 231.67, 231.69, 231.71, 231.73, 231.75, 231.77, 231.79, 231.91, 231.93, 231.95, 231.97, 231.99, 231.101, 231.103, 231.121, 231.123, 231.125, 231.127, 231.129, 231.131, 231.133, 231.135, 231.151, 231.153, 231.161, 231.163, 231.165, 231.167, 231.169, 231.171, 231.173, 231.191, 231.201, 231.203, 231.205, 231.207, 231.209, 231.211, 231.213, 231.215, 231.217, 231.219, 231.231, 231.241, 231.251, 231.253, 231.255, 231.257, 231.271, 231.281, 231.283, 231.285, 231.287, 231.289, 231.291, 231.301, 231.303, 231.305, 231.307, 231.309, 231.311, 231.313, 231.331, 231.333, 231.335, 231.337, 231.339, 231.341, 231.343, 231.361, 231.363, 231.365, 231.381, 231.383, 231.401, 231.403, 231.405, 231.421, 231.423, 231.441, 231.443, 231.445, 231.461, 231.463, 231.465, 231.467, 231.469, 231.481, 231.483, 231.485, 231.487, 231.489, 231.501, 231.503, 231.521, 231.523, 231.541, 231.543, 231.545, 231.547, 231.549, 231.561, 231.563, 231.565, 231.567, 231.569, 231.571, 231.573, 231.575, 231.577, 231.591, 231.593, 231.595, 231.611, 231.613, 231.615, 231.617, 231.619, 231.621, 231.623, 231.641, 231.643, 231.661, 231.663, 231.665, 231.671, 231.673, and 231.675,

concerning requirements for public school personnel assignments. The proposed new sections would provide for rules that establish criteria for assignment of public school personnel; prekindergarten-Grade 6 assignments; Grades 6-8 assignments; electives, disciplinary courses, local credit courses, and innovative courses, Grades 6-12 assignments; Grades 9-12 assignments; special education-related services personnel assignments; paraprofessional personnel, administrators, and other instructional and professional support assignments; and assignments for teachers certified before 1966. Proposed new 19 TAC Chapter 231 would update and clarify the assignments for public school personnel to enable school districts, teacher organizations, and human resource organizations to better understand the appropriate assignments of public school personnel.

The proposed new sections would be necessary as a result of the reorganization of the assignment chart codified in current 19 TAC Chapter 231. The proposed new sections also result from the SBEC's rule review of 19 TAC Chapter 231 conducted in accordance with Texas Government Code, §2001.039. As a result of the reorganization, the SBEC proposes the repeal of current 19 TAC Chapter 231, which may be found in the Proposed Rules section of this issue.

The Texas Education Agency (TEA) staff held a stakeholder meeting on April 4, 2012, to gather input on the proposed reorganization of the figure currently codified in 19 TAC Chapter 231, Assignment of Public School Personnel. Following is a description of the proposed reorganization.

Proposed new 19 TAC Chapter 231, Subchapters A-H, would include updates to assignments as a result of recent revisions to Texas essential knowledge and skills, course offerings for career and technical education, and appropriate grade level changes for multiple certificates in 19 TAC Chapter 233, Categories of Classroom Teaching Certificates. The proposed new subchapters would also include technical changes to clarify and update other content areas as recommended by TEA curriculum staff.

The proposed new sections would have no procedural and reporting implications for school districts and educators. Also, the proposed new sections would have no locally maintained paperwork requirements for school districts and educators.

Michele Moore, associate commissioner for educator leadership and quality, has determined that for the first five-year period the proposed new sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed new sections.

Ms. Moore has determined that for the first five-year period the proposed new sections are in effect the public and student benefit anticipated as a result of the proposed new sections would be updated requirements relating to the assignment of educators in Texas public schools. There are no additional costs to persons required to comply with the proposed new sections.

In addition, there is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to sbecrules@tea.state.tx.us or faxed to (512) 463-5337. All

requests for a public hearing on the proposed new sections submitted under the Administrative Procedure Act must be received by the Department of Educator Leadership and Quality, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Ms. Michele Moore, associate commissioner for educator leadership and quality, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register*.

SUBCHAPTER A. CRITERIA FOR ASSIGNMENT OF PUBLIC SCHOOL PERSONNEL

19 TAC §231.1

The new section is proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new section implements the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.1. Criteria for Assignment of Public School Personnel.

(a) A public school employee must have the appropriate credentials for his or her current assignment specified in this chapter and in other rules of the State Board for Educator Certification (SBEC), unless the appropriate permit has been issued under Chapter 230, Subchapter F, of this title (relating to Permits).

(b) The assignment requirements in this chapter apply to the holders of certificates issued on the basis of 1955, 1972, 1984, and 1987 Standards for Teacher Education as well as certificates issued on the basis of standards aligned with the Texas essential knowledge and skills curriculum, adopted by the State Board of Education, as specified in Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates).

(c) An elementary certificate may be appropriate for teaching high school students if the level of instruction is comparable to that in elementary grades. When such an assignment is made, course outlines must be maintained in the school district files.

(d) Professional personnel employed in federally funded programs and innovative programs must have the qualifications and meet the assignment requirements specified in this chapter and in other rules of the SBEC.

(e) The assignment requirements in this chapter apply to substitute teachers. If a school district must employ a substitute teacher who is not certified, a list of the substitute teachers shall be retained in the school district files.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300819

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SUBCHAPTER B. PREKINDERGARTEN- GRADE 6 ASSIGNMENTS

19 TAC §§231.3, 231.5, 231.7, 231.9, 231.11, 231.13, 231.15, 231.17, 231.19, 231.21, 231.23, 231.25, 231.27, 231.29

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.3. General Education, Prekindergarten.

(a) All-level certification in art, health education, music, physical education, speech communication and theatre arts, or theatre may be assigned to teach in the certified area(s) in Prekindergarten-Grade 12.

(b) An assignment for General Education, Prekindergarten, is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 4.

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) Early Childhood Education (Prekindergarten and Kindergarten).

(4) Elementary--General. The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(5) Elementary--General (Grades 1-6). The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(6) Elementary--General (Grades 1-8). The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(7) Elementary Early Childhood Education (Prekindergarten-Grade 6).

(8) Elementary Self-Contained (Grades 1-8). The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(9) English as a Second Language Generalist: Early Childhood-Grade 4.

(10) English as a Second Language Generalist: Early Childhood-Grade 6.

(11) Generalist: Early Childhood-Grade 4.

(12) Generalist: Early Childhood-Grade 6.

(13) Kindergarten.

(14) Master Mathematics Teacher (Early Childhood-Grade 4) (Mathematics only).

(15) Master Reading Teacher (Early Childhood-Grade 12) (Reading only).

(16) Master Science Teacher (Early Childhood-Grade 4) (Science only).

(17) Prekindergarten-Grade 5.

(18) Prekindergarten-Grade 6.

(19) Teacher of Young Children--General.

§231.5. Bilingual, Prekindergarten.

(a) Effective July 1, 2015, all educators assigned to teach Bilingual, Prekindergarten, must hold a valid certificate that matches the subject and grade level of the assignment plus a valid bilingual education supplemental certificate or endorsement.

(b) An assignment for Bilingual, Prekindergarten, is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 4.

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) A valid classroom teaching certificate appropriate for the grade level and subject areas taught plus one of the following.

(A) Bilingual Education Supplemental.

(B) Bilingual Education Supplemental (Early Childhood-Grade 4).

(C) Bilingual Education Supplemental (Grades 4-8).

(D) Bilingual Endorsement.

(E) Bilingual/English as a Second Language Endorsement.

(4) Early Childhood Education (Prekindergarten and Kindergarten). The provisions of this paragraph shall expire on July 1, 2015.

(A) Initial assignments beginning with the 1991-1992 school year require the bilingual education delivery system or endorsement.

(B) Teachers assigned prior to the 1991-1992 school year are required to verify oral and written proficiency in the language of the target population as measured by examinations approved by the Texas Education Agency (TEA) by September 1, 1993, to be eligible for assignment.

(5) Elementary--General. The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement and the bilingual education delivery system or endorsement.

(C) Teachers assigned prior to the 1991-1992 school year are required to verify oral and written proficiency in the language of the target population as measured by examinations approved by the TEA by September 1, 1993, to be eligible for assignment.

(6) Elementary--General (Grades 1-6). The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement and the bilingual education delivery system or endorsement.

(C) Teachers assigned prior to the 1991-1992 school year are required to verify oral and written proficiency in the language of the target population as measured by examinations approved by the TEA by September 1, 1993, to be eligible for assignment.

(7) Elementary--General (Grades 1-8). The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement and the bilingual education delivery system or endorsement.

(C) Teachers assigned prior to the 1991-1992 school year are required to verify oral and written proficiency in the language of the target population as measured by examinations approved by the TEA by September 1, 1993, to be eligible for assignment.

(8) Elementary Early Childhood Education (Prekindergarten-Grade 6). The provisions of this paragraph shall expire on July 1, 2015.

(A) Initial assignments beginning with the 1991-1992 school year require the bilingual education delivery system or endorsement.

(B) Teachers assigned prior to the 1991-1992 school year are required to verify oral and written proficiency in the language of the target population as measured by examinations approved by the TEA by September 1, 1993, to be eligible for assignment.

(9) Elementary Self-Contained (Grades 1-8). The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(10) Elementary teacher certification with Bilingual Endorsement. The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(11) Prekindergarten-Grade 5--General.

(A) Initial assignments beginning with the 1991-1992 school year require the bilingual education delivery system or endorsement.

(B) Teachers assigned prior to the 1991-1992 school year are required to verify oral and written proficiency in the language of the target population as measured by examinations approved by the TEA by September 1, 1993, to be eligible for assignment.

(12) Prekindergarten-Grade 6--General.

(A) Initial assignments beginning with the 1991-1992 school year require the bilingual education delivery system or endorsement.

(B) Teachers assigned prior to the 1991-1992 school year are required to verify oral and written proficiency in the language of the target population as measured by examinations approved by the TEA by September 1, 1993, to be eligible for assignment.

(13) Prekindergarten-Grade 6--Bilingual/English as a Second Language.

(14) Prekindergarten-Grade 12--Bilingual/English as a Second Language.

(15) Kindergarten. The provisions of this paragraph shall expire on July 1, 2015.

(A) Initial assignments beginning with the 1991-1992 school year require the bilingual education delivery system or endorsement.

(B) Teachers assigned prior to the 1991-1992 school year are required to verify oral and written proficiency in the language of the target population as measured by examinations approved by the TEA by September 1, 1993, to be eligible for assignment.

(16) Teacher of Young Children--General. The provisions of this paragraph shall expire on July 1, 2015.

(A) Initial assignments beginning with the 1991-1992 school year require the bilingual education delivery system or endorsement.

(B) Teachers assigned prior to the 1991-1992 school year are required to verify oral and written proficiency in the language of the target population as measured by examinations approved by the TEA by September 1, 1993, to be eligible for assignment.

§231.7. English as a Second Language, Prekindergarten.

(a) Effective July 1, 2015, all educators assigned to teach English as a Second Language, Prekindergarten, must hold a valid certificate that matches the subject and grade level of the assignment plus a valid English as a Second Language supplemental certificate or endorsement or bilingual education supplemental certificate or endorsement.

(b) An assignment for English as a Second Language, Prekindergarten, is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 4.

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) A valid classroom teaching certificate appropriate for the grade level and subject areas taught plus one of the following.

(A) Bilingual Education Supplemental.

(B) Bilingual Education Supplemental (Early Childhood-Grade 4).

(C) Bilingual Education Supplemental (Grades 4-8).

(D) Bilingual Endorsement.

(E) Bilingual/English as a Second Language Endorsement.

(F) English as a Second Language Endorsement.

(G) English as a Second Language Supplemental.

(4) Early Childhood Education (Prekindergarten and Kindergarten). Initial assignments beginning with the 1991-1992

school year require the English as a Second Language endorsement or the bilingual education delivery system or endorsement. The provisions of this paragraph shall expire on July 1, 2015.

(5) Elementary--General. The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(C) Initial assignments beginning with the 1991-1992 school year require the English as a Second Language endorsement or the bilingual education delivery system or endorsement.

(6) Elementary--General (Grades 1-6). The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(C) Initial assignments beginning with the 1991-1992 school year require the English as a Second Language endorsement or the bilingual education delivery system or endorsement.

(7) Elementary--General (Grades 1-8). The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(C) Initial assignments beginning with the 1991-1992 school year require the English as a Second Language endorsement or the bilingual education delivery system or endorsement.

(8) Elementary Early Childhood Education (Prekindergarten-Grade 6). Initial assignments beginning with the 1991-1992 school year require the English as a Second Language endorsement or the bilingual education delivery system or endorsement. The provisions of this paragraph shall expire on July 1, 2015.

(9) Elementary Self-Contained (Grades 1-8). The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited

to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(10) Elementary teacher certificate with Bilingual or English as a Second Language Endorsement. The provisions of this paragraph shall expire on July 1, 2015.

(A) Teachers assigned prior to the 1991-1992 school year are required to complete a minimum of 90 clock-hours of in-service training (may be advanced academic training) or six semester credit hours in early childhood education, inclusive of but not limited to child development or language acquisition, by September 1, 1993, to be eligible for assignment.

(B) Initial assignments beginning with the 1991-1992 school year require the early childhood education delivery system or endorsement.

(11) English as a Second Language Generalist: Early Childhood-Grade 4.

(12) English as a Second Language Generalist: Early Childhood-Grade 6.

(13) Prekindergarten-Grade 5--General. Initial assignments beginning with the 1991-1992 school year require the English as a Second Language endorsement or the bilingual education delivery system or endorsement. The provisions of this paragraph shall expire on July 1, 2015.

(14) Prekindergarten-Grade 6--General. Initial assignments beginning with the 1991-1992 school year require the English as a Second Language endorsement or the bilingual education delivery system or endorsement. The provisions of this paragraph shall expire on July 1, 2015.

(15) Prekindergarten-Grade 6--Bilingual/English as a Second Language.

(16) Prekindergarten-Grade 12--Bilingual/English as a Second Language.

(17) Prekindergarten-Grade 12--English as a Second Language.

(18) Kindergarten. Initial assignments beginning with the 1991-1992 school year require the English as a Second Language endorsement or the bilingual education delivery system or endorsement. The provisions of this paragraph shall expire on July 1, 2015.

(19) Teacher of Young Children--General. Initial assignments beginning with the 1991-1992 school year require the English as a Second Language endorsement or the bilingual education delivery system or endorsement. The provisions of this paragraph shall expire on July 1, 2015.

§231.9. General Education, Kindergarten.

(a) All-level certification in art, health education, music, physical education, speech communication and theatre arts, or theatre may be assigned to teach in the certified area(s) in Prekindergarten-Grade 12.

(b) An assignment for General Education, Kindergarten, is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 4.

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) Early Childhood Education (Prekindergarten and Kindergarten).

(4) Elementary Early Childhood Education (Prekindergarten-Grade 6).

(5) English as a Second Language Generalist: Early Childhood-Grade 4.

(6) English as a Second Language Generalist: Early Childhood-Grade 6.

(7) Generalist: Early Childhood-Grade 4.

(8) Generalist: Early Childhood-Grade 6.

(9) Kindergarten.

(10) Master Mathematics Teacher (Early Childhood-Grade 4) (Mathematics only).

(11) Master Reading Teacher (Early Childhood-Grade 12) (Reading only).

(12) Master Science Teacher (Early Childhood-Grade 4) (Science only).

(13) Prekindergarten-Grade 5--General.

(14) Prekindergarten-Grade 6--General.

(15) Teacher of Young Children--General.

§231.11. Bilingual, Kindergarten-Grade 6.

(a) Effective July 1, 2015, all educators assigned to teach Bilingual, Kindergarten-Grade 6, must hold a valid certificate that matches the subject and grade level of the assignment plus a valid bilingual education supplemental certificate or endorsement.

(b) An assignment for Bilingual, Kindergarten-Grade 6, is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 4 (Kindergarten-Grade 4 only).

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) Bilingual Generalist: Grades 4-8 (Grades 4-6 only).

(4) A valid classroom teaching certificate appropriate for the grade level and subject areas taught plus one of the following.

(A) Bilingual Education Supplemental.

(B) Bilingual Education Supplemental (Early Childhood-Grade 4).

(C) Bilingual Education Supplemental (Grades 4-8).

(D) Bilingual Endorsement.

(E) Bilingual/English as a Second Language Endorsement.

(5) Prekindergarten-Grade 5--Bilingual/English as a Second Language (Prekindergarten-Grade 5 only).

(6) Prekindergarten-Grade 6--Bilingual/English as a Second Language.

(7) Prekindergarten-Grade 12--Bilingual/English as a Second Language.

§231.13. English as a Second Language, Kindergarten-Grade 6.

(a) Effective July 1, 2015, all educators assigned to teach English as a Second Language, Kindergarten-Grade 6, must hold a valid

certificate that matches the subject and grade level of the assignment plus a valid English as a Second Language supplemental certificate or endorsement or bilingual education supplemental certificate or endorsement.

(b) An assignment for English as a Second Language, Kindergarten-Grade 6, is allowed with one of the following certificates.

(1) An elementary certified teacher with a valid English as a Second Language supplemental certificate or endorsement or bilingual education supplemental certificate or endorsement may be assigned to teach English as a Second Language at the kindergarten level.

(2) A valid classroom teaching certificate appropriate for the grade level and subject areas taught plus one of the following.

(A) Bilingual Education Supplemental.

(B) Bilingual Education Supplemental (Early Childhood-Grade 4).

(C) Bilingual Education Supplemental (Grades 4-8).

(D) Bilingual Endorsement.

(E) Bilingual/English as a Second Language Endorsement.

(F) English as a Second Language Endorsement.

(G) English as a Second Language Supplemental.

(3) Bilingual Generalist: Early Childhood-Grade 4 (Kindergarten-Grade 4 only).

(4) Bilingual Generalist: Early Childhood-Grade 6.

(5) Bilingual Generalist: Grades 4-8 (Grades 4-6 only).

(6) English as a Second Language Generalist: Early Childhood-Grade 4 (Kindergarten-Grade 4 only).

(7) English as a Second Language Generalist: Early Childhood-Grade 6.

(8) English as a Second Language Generalist: Grades 4-8 (Grades 4-6 only).

(9) Prekindergarten-Grade 5--Bilingual/English as a Second Language (Prekindergarten-Grade 5 only).

(10) Prekindergarten-Grade 6--Bilingual/English as a Second Language.

(11) Prekindergarten-Grade 12--English as a Second Language.

(12) Prekindergarten-Grade 12--Bilingual/English as a Second Language.

(13) Teacher certificate appropriate for grade level of assignment and assigned to teach English as a Second Language in an approved English as a Second Language program during the 1981-1982 school year in the same school district. The provisions of this paragraph shall expire on July 1, 2015.

§231.15. Elementary, Grades 1-6.

An assignment for Elementary, Grades 1-6, is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 4 (Grades 1-4 only).

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) Bilingual Generalist: Grades 4-8 (Grades 4-6 only).

(4) Elementary--General.

(5) Elementary--General (Grades 1-6).

(6) Elementary--General (Grades 1-8).

(7) Elementary Early Childhood Education (Prekindergarten-Grade 6).

(8) Elementary Self-Contained (Grades 1-8).

(9) English as a Second Language Generalist: Early Childhood-Grade 4 (Grades 1-4 only).

(10) English as a Second Language Generalist: Early Childhood-Grade 6.

(11) English as a Second Language Generalist: Grades 4-8 (Grades 4-6 only).

(12) Generalist: Early Childhood-Grade 4 (Grades 1-4 only).

(13) Generalist: Early Childhood-Grade 6.

(14) Generalist: Grades 4-8 (Grades 4-6 only).

(15) Master Mathematics Teacher (Early Childhood-Grade 4) (Mathematics in Grades 1-4 only).

(16) Master Mathematics Teacher (Grades 4-8) (Mathematics in Grades 4-6 only).

(17) Master Reading Teacher (Early Childhood-Grade 12) (Reading in Grades 1-6 only).

(18) Master Science Teacher (Early Childhood-Grade 4) (Science in Grades 1-4 only).

(19) Master Science Teacher (Grades 4-8) (Science in Grades 4-6 only).

(20) Prekindergarten-Grade 5--General (Grades 1-5 only).

(21) Prekindergarten-Grade 6--General.

(22) Teacher of Young Children--General (Grades 1-3 only).

§231.17. Reading, Grades 1-6.

An assignment for Reading, Grades 1-6, is allowed with one of the following certificates.

(1) A teacher certificate that matches the subject and grade level of the assignment (Prekindergarten-Grade 6).

(2) An elementary teacher certificate appropriate for Grades 1-6 assignment.

(3) Bilingual Generalist: Early Childhood-Grade 4 (Grades 1-4 only).

(4) Bilingual Generalist: Early Childhood-Grade 6.

(5) Bilingual Generalist: Grades 4-8 (Grades 4-6 only).

(6) English as a Second Language Generalist: Early Childhood-Grade 4 (Grades 1-4 only).

(7) English as a Second Language Generalist: Early Childhood-Grade 6.

(8) English as a Second Language Generalist: Grades 4-8 (Grades 4-6 only).

(9) English Language Arts and Reading: Grades 4-8 (Grades 4-6 only).

(10) English Language Arts and Reading/Social Studies: Grades 4-8 (Grades 4-6 only).

(11) Generalist: Early Childhood-Grade 4 (Grades 1-4 only).

(12) Generalist: Early Childhood-Grade 6.

(13) Generalist: Grades 4-8 (Grades 4-6 only).

(14) Master Reading Teacher (Early Childhood-Grade-12).

(15) Reading Specialist.

(16) Reading Specialist (Early Childhood-Grade 12).

§231.19. Languages Other Than English, Grades 1-6.

An assignment for Languages Other Than English, Grades 1-6, is allowed with one of the following certificates.

(1) A teacher certificate that matches the subject and grade level of the assignment (Grades 1-6).

(2) A Languages Other Than English certificate in the appropriate language (Early Childhood-Grade 12).

(3) A secondary teacher certificate with a teaching field in the language of assignment plus six semester credit hours of elementary education.

§231.21. Art, Prekindergarten-Grade 6.

(a) Effective July 1, 2015, all educators assigned to teach Art, Prekindergarten-Grade 6, must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment for Art, Prekindergarten-Grade 6, is allowed with one of the following certificates.

(1) A teacher certificate that matches the subject and grade level of the assignment (Prekindergarten-Grade 6).

(2) All-Level Art.

(3) All-Level Art (Prekindergarten-Grade 12).

(4) Art: Early Childhood-Grade 12.

(5) Bilingual Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(6) Bilingual Generalist: Early Childhood-Grade 6.

(7) Early Childhood Education (Prekindergarten and Kindergarten only).

(8) English as a Second Language Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(9) English as a Second Language Generalist: Early Childhood-Grade 6.

(10) Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(11) Generalist: Early Childhood-Grade 6.

§231.23. Music, Prekindergarten-Grade 6.

An assignment for Music, Prekindergarten-Grade 6, is allowed with one of the following certificates.

(1) A teacher certificate that matches the subject and grade level of the assignment (Prekindergarten-Grade 6).

(2) All-Level Music.

(3) All-Level Music (Prekindergarten-Grade 12).

(4) Bilingual Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(5) Bilingual Generalist: Early Childhood-Grade 6.

(6) Early Childhood Education (Prekindergarten and Kindergarten only).

(7) English as a Second Language Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(8) English as a Second Language Generalist: Early Childhood-Grade 6.

(9) Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(10) Generalist: Early Childhood-Grade 6.

(11) Music: Early Childhood-Grade 12.

§231.25. Theatre, Prekindergarten-Grade 6.

An assignment for Theatre, Prekindergarten-Grade 6, is allowed with one of the following certificates.

(1) All-Level Speech and Drama.

(2) All-Level Speech Communications/Theatre Arts.

(3) All-Level Theatre Arts.

(4) An elementary teacher certificate appropriate for Prekindergarten-Grade 6 assignment.

(5) Early Childhood Education (Prekindergarten and Kindergarten only).

(6) Theatre: Early Childhood-Grade 12.

§231.27. Physical Education, Prekindergarten-Grade 6.

An assignment for Physical Education, Prekindergarten-Grade 6, is allowed with one of the following certificates.

(1) A teacher certificate that matches the subject and grade level of the assignment (Prekindergarten-Grade 6).

(2) All-Level Physical Education.

(3) All-Level Health and Physical Education.

(4) An elementary teacher certificate appropriate for Prekindergarten-Grade 6 assignment.

(5) Bilingual Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(6) Bilingual Generalist: Early Childhood-Grade 6.

(7) Early Childhood Education (Prekindergarten and Kindergarten only).

(8) English as a Second Language Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(9) English as a Second Language Generalist: Early Childhood-Grade 6.

(10) Generalist: Early Childhood-Grade 4 (Early Childhood-Grade 4 only).

(11) Generalist: Early Childhood-Grade 6.

(12) Physical Education: Early Childhood-Grade 12.

§231.29. Technology Applications, Prekindergarten-Grade 6.

An assignment for Technology Applications, Prekindergarten-Grade 6, is allowed with one of the following certificates.

(1) A teacher certificate that matches the subject and grade level of the assignment (Prekindergarten-Grade 6), plus verification of competency to teach Technology Applications.

(2) Technology Applications: Early Childhood-Grade 12.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Cristina De La Fuente-Valadez

Director, Rulemaking, Texas Education Agency
State Board for Educator Certification

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For further information, please call: (512) 475-1497



SUBCHAPTER C. GRADES 6-8 ASSIGNMENTS

19 TAC §§231.41, 231.43, 231.45, 231.47, 231.49, 231.51, 231.53, 231.55, 231.57, 231.59, 231.61, 231.63, 231.65, 231.67, 231.69, 231.71, 231.73, 231.75, 231.77, 231.79

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.41. Self-Contained, Grades 6-8.

(a) Self-contained is defined as a class in which one teacher teaches all or most subjects to one class of students.

(b) An assignment in a self-contained classroom for All General Subjects, Grades 6-8, is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).

(2) Bilingual Generalist: Grades 4-8 (English language arts, mathematics, science, and social studies only).

(3) Elementary--General.

(4) Elementary--General (Grades 1-6) (Grade 6 only).

(5) Elementary--General (Grades 1-8).

(6) Elementary Early Childhood Education (Prekindergarten-Grade 6) (Grade 6 only).

(7) Elementary Self-Contained (Grades 1-8).

(8) English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(9) English as a Second Language Generalist: Grades 4-8 (English language arts, mathematics, science, and social studies only).

(10) Generalist: Early Childhood-Grade 6 (Grade 6 only).

(11) Generalist: Grades 4-8 (English language arts, mathematics, science, and social studies only).

(12) Prekindergarten-Grade 6--General (Grade 6 only).

§231.43. All General Subjects, Grade 6.

(a) Effective July 1, 2015, all educators assigned to teach All General Subjects, Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for All General Subjects, Grade 6, for a holder of a valid elementary level certificate is allowed with one of the following certificates.

(1) Any elementary teacher certificate appropriate for Grade 6.

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) Bilingual Generalist: Grades 4-8 (English language arts, mathematics, science, and social studies only).

(4) English as a Second Language Generalist: Early Childhood-Grade 6.

(5) English as a Second Language Generalist: Grades 4-8 (English, language arts, mathematics, science, and social studies only).

(6) Generalist: Early Childhood-Grade 6.

(7) Generalist: Grades 4-8 (English language arts, mathematics, science, and social studies only).

(c) Requirements for a holder of a secondary or all-level certificate in a departmentalized Grades 6-8 assignment are specified for each subject area in this subchapter.

§231.45. English Language Arts, Grades 6-8.

(a) Effective July 1, 2015, all educators assigned to teach English Language Arts, Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for English Language Arts, Grades 6-8, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).

(2) Bilingual Generalist: Grades 4-8.

(3) Elementary English (Grades 1-8).

(4) Elementary teacher certificate plus 18 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(5) English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(6) English as a Second Language Generalist: Grades 4-8.

(7) English Language Arts and Reading: Grades 4-8.

(8) English Language Arts and Reading/Social Studies: Grades 4-8.

(9) English Language Arts and Reading: Grades 7-12 (Grades 7 and 8 only).

(10) English Language Arts and Reading: Grades 8-12 (Grade 8 only).

(11) Generalist: Early Childhood-Grade 6 (Grade 6 only).

(12) Generalist: Grades 4-8.

(13) Grades 6-12 or Grades 6-8--English.

(14) Grades 6-12 or Grades 6-8--English Language Arts, Composite.

(15) Junior High School or High School--English.

(16) Junior High School or High School--English Language Arts, Composite.

(17) Secondary English (Grades 6-12).

(18) Secondary English Language Arts, Composite (Grades 6-12).

(19) Secondary or all-level teacher certificate plus 18 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

§231.47. English as a Second Language, Grades 6-8.

(a) Effective July 1, 2015, all educators assigned to teach English as a Second Language, Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment plus a valid English as a Second Language supplemental certificate or endorsement or bilingual education supplemental certificate or endorsement.

(b) An assignment in a departmentalized classroom for English as a Second Language, Grades 6-8, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) A valid classroom teaching certificate appropriate for the grade level and subject areas taught plus one of the following.

(A) Bilingual Education Supplemental.

(B) Bilingual Education Supplemental (Early Childhood-Grade 4).

(C) Bilingual Education Supplemental (Grades 4-8).

(D) Bilingual Endorsement.

(E) Bilingual/English as a Second Language Endorsement.

(F) English as a Second Language Endorsement.

(G) English as a Second Language Supplemental.

(2) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).

(3) Bilingual Generalist: Grades 4-8.

(4) Elementary Bilingual/English as a Second Language (Grades 1-8).

(5) Elementary teacher certificate and assigned to teach English as a Second Language in an approved English as a Second Language program during 1981-1982 school year in the same school district. The provisions of this paragraph shall expire on July 1, 2015.

(6) Elementary Bilingual.

(7) English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(8) Junior High School or High School--Bilingual/English as a Second Language.

(9) Prekindergarten-Grade 6--Bilingual/English as a Second Language (Grade 6 only).

(10) Prekindergarten-Grade 12--Bilingual/English as a Second Language.

(11) Prekindergarten-Grade 12--English as a Second Language.

(12) Secondary Bilingual/English as a Second Language (Grades 6-12).

§231.49. Reading (At or Above Grade Level), Grades 6-8.

(a) Effective July 1, 2015, all educators assigned to teach Reading (at or above grade level), Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Reading (at or above grade level), Grades 6-8, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).

(2) Bilingual Generalist: Grades 4-8.

(3) Elementary English (Grades 1-8). This assignment requires verifiable preparation in teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(4) Elementary Reading (Grades 1-8).

(5) Elementary teacher certificate plus 18 semester credit hours in English and nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(6) English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(7) English as a Second Language Generalist: Grades 4-8.

(8) English Language Arts and Reading: Grades 4-8.

(9) English Language Arts and Reading: Grades 7-12 (Grade 7 only).

(10) English Language Arts and Reading: Grades 8-12 (Grade 8 only).

(11) English Language Arts and Reading/Social Studies: Grades 4-8.

(12) Generalist: Early Childhood-Grade 6 (Grade 6 only).

(13) Generalist: Grades 4-8.

(14) Junior High School or High School--English.

(15) Junior High School or High School--English Language Arts, Composite. This assignment includes at least six semester credit hours of reading. Initial assignments beginning with the

2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(16) Junior High School or High School--Reading.

(17) Master Reading Teacher (Early Childhood-Grade 12).

(18) Reading Specialist.

(19) Reading Specialist (Early Childhood-Grade 12).

(20) Secondary English (Grades 6-8). This assignment requires verifiable preparation in teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(21) Secondary English Language Arts, Composite (Grades 6-8). This assignment includes at least six semester credit hours of reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(22) Secondary Reading (Grades 6-8).

(23) Secondary English (Grades 6-12). This assignment requires verifiable preparation in teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(24) Secondary English Language Arts, Composite (Grades 6-12). This assignment includes at least six semester credit hours of reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(25) Secondary Reading (Grades 6-12).

(26) Secondary or all-level teacher certificate plus 18 semester credit hours in English and nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

§231.51. Reading Improvement (One Year or More Below Grade Level), Grades 6-8.

(a) Effective July 1, 2015, all educators assigned to teach Reading Improvement (one year or more below grade level), Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Reading Improvement (one year or more below grade level), Grades 6-8, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).

(2) Bilingual Generalist: Grades 4-8.

(3) Elementary English (Grades 1-8). This assignment requires verifiable preparation in teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(4) Elementary Reading (Grades 1-8). The provisions of this paragraph shall expire on July 1, 2015.

(5) Elementary teacher certificate plus 18 semester credit hours in English and nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(6) English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(7) English as a Second Language Generalist: Grades 4-8.

(8) English Language Arts and Reading: Grades 4-8.

(9) English Language Arts and Reading: Grades 7-12 (Grades 7 and 8 only).

(10) English Language Arts and Reading: Grades 8-12 (Grade 8 only).

(11) English Language Arts and Reading/Social Studies: Grades 4-8.

(12) Generalist: Early Childhood-Grade 6 (Grade 6 only).

(13) Generalist: Grades 4-8.

(14) Grades 6-12 or Grades 6-8--English. This assignment requires verifiable preparation in the teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(15) Grades 6-12 or Grades 6-8--English Language Arts, Composite. This assignment includes at least six semester credit hours of reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(16) Grades 6-12 or Grades 6-8--Reading.

(17) Junior High School or High School--English. This assignment requires verifiable preparation in the teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(18) Junior High School or High School--English Language Arts, Composite. This assignment includes at least six semester credit hours of reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(19) Junior High School or High School--Reading.

(20) Master Reading Teacher (Early Childhood-Grade 12).

(21) Reading Specialist.

(22) Reading Specialist (Early Childhood-Grade 12).

(23) Secondary English (Grades 6-12). This assignment requires verifiable preparation in the teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(24) Secondary English Language Arts, Composite (Grades 6-12). This assignment includes at least six semester credit hours of reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(25) Secondary Reading (Grades 6-12).

(26) Teacher certificate plus 9 semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

§231.53. Speech, Grades 6-8.

(a) Effective July 1, 2015, all educators assigned to teach Speech, Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Speech, Grades 6-8, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) All-Level Speech Communications/Theatre Arts (Prekindergarten-Grade 12).

(2) All-Level Speech and Drama.

(3) Elementary Speech.

(4) Elementary Speech Communications (Grades 1-8).

(5) Elementary teacher certificate plus 12 semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(6) Grades 6-12 or Grades 6-8--English Language Arts, Composite. This assignment includes at least six semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(7) Grades 6-12 or Grades 6-8--Speech Communications.

(8) Junior High School or High School--English Language Arts, Composite. This assignment includes at least six semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(9) Junior High School or High School--Speech.

(10) Junior High School or High School--Speech and Drama.

(11) Secondary English Language Arts, Composite (Grades 6-12). This assignment includes at least six semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(12) Secondary Speech Communications (Grades 6-12).

(13) Secondary or all-level teacher certificate plus 12 semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(14) Speech: Grades 7-12 (Grades 7 and 8 only).

(15) Speech: Grades 8-12 (Grade 8 only).

§231.55. Languages Other Than English, Grades 6-8.

(a) Effective July 1, 2015, all educators assigned to teach Languages Other Than English, Exploratory Languages, Cultural and Linguistic Topics, or American Sign Language, Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Languages Other Than English, Exploratory Languages, or Cultural and Linguistic Topics, Grades 6-8, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) Elementary teacher certificate in the appropriate language of assignment.

(2) Elementary teacher certificate plus 18 semester credit hours in language of assignment. The provisions of this paragraph shall expire on July 1, 2015.

(3) Languages Other Than English certificate in the appropriate language (Early Childhood-Grade 12).

(4) Secondary or all-level teacher certificate plus 18 semester credit hours in language of assignment. The provisions of this paragraph shall expire on July 1, 2015.

(5) Secondary teacher certificate in the appropriate language of assignment.

(c) An assignment in a departmentalized classroom for American Sign Language, Grades 6-8, for a holder of a valid secondary or all-level certificate is allowed with one of the following certificates.

(1) American Sign Language.

(2) American Sign Language: Early Childhood-Grade 12.

(d) The Texas Assessment of Sign Communication-American Sign Language (TASC-ASL) is required for an American Sign Language assignment.

§231.57. Social Studies, Grade 6.

(a) Effective July 1, 2015, all educators assigned to teach Social Studies, Grade 6, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Social Studies, Grade 6, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) Any elementary teacher certificate appropriate for Grade 6.

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) Bilingual Generalist: Grades 4-8.

(4) English as a Second Language Generalist: Early Childhood-Grade 6.

(5) English as a Second Language Generalist: Grades 4-8.

(6) English Language Arts and Reading/Social Studies: Grades 4-8.

- (7) Generalist: Early Childhood-Grade 6.
- (8) Generalist: Grades 4-8.
- (9) Grades 6-12 or Grades 6-8--Economics.
- (10) Grades 6-12 or Grades 6-8--Geography.
- (11) Grades 6-12 or Grades 6-8--Government.
- (12) Grades 6-12 or Grades 6-8--History.
- (13) Grades 6-12 or Grades 6-8--Psychology.
- (14) Grades 6-12 or Grades 6-8--Sociology.
- (15) Grades 6-12 or Grades 6-8--Social Studies.
- (16) Grades 6-12 or Grades 6-8--Social Studies, Composite.

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- (17) Junior High School or High School--Anthropology.
- (18) Junior High School or High School--Economics.
- (19) Junior High School or High School--Geography.
- (20) Junior High School or High School--Government-Political Science.
- (21) Junior High School or High School--History.
- (22) Junior High School or High School--Psychology.
- (23) Junior High School or High School--Sociology.
- (24) Junior High School or High School--Social Science, Composite.

Composite.

- (25) Secondary Economics (Grades 6-12).
- (26) Secondary Geography (Grades 6-12).
- (27) Secondary Government (Grades 6-12).
- (28) Secondary History (Grades 6-12).
- (29) Secondary Psychology (Grades 6-12).
- (30) Secondary Sociology (Grades 6-12).
- (31) Secondary Social Studies (Grades 6-12).
- (32) Secondary Social Studies, Composite (Grades 6-12).
- (33) Secondary or all-level teacher certificate plus 18 semester credit hours in social studies. The provisions of this paragraph shall expire on July 1, 2015.
- (34) Social Studies: Grades 4-8.

§231.59. Social Studies, Grades 7 and 8.

(a) Effective July 1, 2015, all educators assigned to teach Social Studies, Grades 7 and 8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Social Studies, Grades 7 and 8, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

- (1) Bilingual Generalist: Grades 4-8.
- (2) Elementary History.
- (3) Elementary History (Grades 1-8).
- (4) Elementary Social Studies (Grades 1-8).

(5) Elementary teacher certificate plus 18 semester credit hours in social studies. The provisions of this paragraph shall expire on July 1, 2015.

(6) English as a Second Language Generalist: Grades 4-8.

(7) English Language Arts and Reading/Social Studies: Grades 4-8.

(8) Generalist: Grades 4-8.

(9) Grades 6-12 or Grades 6-8--History.

(10) Grades 6-12 or Grades 6-8--Social Studies.

(11) Grades 6-12 or Grades 6-8--Social Studies, Composite.

(12) High School--History.

(13) High School--Social Science, Composite.

(14) History: Grades 7-12.

(15) History: Grades 8-12 (Grade 8 only).

(16) Junior High School or High School--History.

(17) Junior High School or High School--Social Science, Composite.

(18) Secondary History (Grades 6-12).

(19) Secondary Social Studies (Grades 6-12).

(20) Secondary Social Studies, Composite (Grades 6-12).

(21) Secondary or all-level teacher certificate plus 18 semester credit hours in social studies. The provisions of this paragraph shall expire on July 1, 2015.

(22) Social Studies: Grades 4-8.

(23) Social Studies: Grades 7-12.

(24) Social Studies: Grades 8-12 (Grade 8 only).

§231.61. Mathematics, Grades 6-8.

(a) Effective July 1, 2015, all educators assigned to teach Mathematics, Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Mathematics, Grades 6-8, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).

(2) Bilingual Generalist: Grades 4-8.

(3) Elementary Mathematics (Grades 1-8). A teacher holding an Elementary Mathematics (Grades 1-8) certificate may teach Algebra I at the middle school level for high school graduation credit.

(4) Elementary teacher certificate plus 18 semester credit hours in mathematics. The provisions of this paragraph shall expire on July 1, 2015.

(5) English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(6) English as a Second Language Generalist: Grades 4-8.

(7) Generalist: Early Childhood-Grade 6 (Grade 6 only).

(8) Generalist: Grades 4-8.

(9) Grades 6-12 or Grades 6-8--Mathematics.

(10) Junior High School or High School--Mathematics.

(11) Junior High School or High School--Mathematical Science, Composite.

(12) Master Mathematics Teacher (Grades 4-8).

(13) Master Mathematics Teacher (Grades 8-12) (Grade 8 only).

(14) Mathematics: Grades 4-8. A teacher holding a Mathematics: Grades 4-8 certificate may teach Algebra I at the middle school level for high school graduation credit.

(15) Mathematics: Grades 7-12 (Grades 7 and 8 only).

(16) Mathematics: Grades 8-12 (Grade 8 only).

(17) Mathematics/Physical Science/Engineering: Grades 6-12.

(18) Mathematics/Physical Science/Engineering: Grades 8-12 (Grade 8 only).

(19) Mathematics/Science: Grades 4-8.

(20) Physics/Mathematics: Grades 7-12 (Grades 7 and 8 only).

(21) Physics/Mathematics: Grades 8-12 (Grade 8 only).

(22) Secondary Mathematics (Grades 6-12).

(23) Secondary or all-level teacher certificate plus 18 semester credit hours in mathematics. The provisions of this paragraph shall expire on July 1, 2015.

§231.63. Science, Grade 6.

(a) Effective July 1, 2015, all educators assigned to teach Science, Grade 6, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Science, Grade 6, for a holder of a valid elementary, secondary, or all-level certificate is allowed with one of the following certificates.

(1) Any elementary teacher certificate appropriate for Grade 6.

(2) Bilingual Generalist: Early Childhood-Grade 6.

(3) Bilingual Generalist: Grades 4-8.

(4) English as a Second Language Generalist: Early Childhood-Grade 6.

(5) English as a Second Language Generalist: Grades 4-8.

(6) Generalist: Early Childhood-Grade 6.

(7) Generalist: Grades 4-8.

(8) Grades 6-12 or Grades 6-8--Biology.

(9) Grades 6-12 or Grades 6-8--Chemistry.

(10) Grades 6-12 or Grades 6-8--Earth Science.

(11) Grades 6-12 or Grades 6-8--Life/Earth Science.

(12) Grades 6-12 or Grades 6-8--Physical Science.

(13) Grades 6-12 or Grades 6-8--Physics.

(14) Grades 6-12 or Grades 6-8--Science.

(15) Grades 6-12 or Grades 6-8--Science, Composite.

(16) Junior High School or High School--Biology.

(17) Junior High School or High School--Chemistry.

(18) Junior High School or High School--Earth Science.

(19) Junior High School or High School--Life/Earth Science.

(20) Junior High School or High School--Life/Earth Middle-School Science.

(21) Junior High School or High School--Physical Science.

(22) Junior High School or High School--Physics.

(23) Junior High School or High School--Science.

(24) Junior High School or High School--Science, Composite.

(25) Master Science Teacher (Grades 4-8).

(26) Mathematics/Science: Grades 4-8.

(27) Science: Grades 4-8.

(28) Secondary Biology (Grades 6-12).

(29) Secondary Chemistry (Grades 6-12).

(30) Secondary Earth Science (Grades 6-12).

(31) Secondary Life/Earth Science (Grades 6-12).

(32) Secondary Physical Science (Grades 6-12).

(33) Secondary Physics (Grades 6-12).

(34) Secondary Science (Grades 6-12).

(35) Secondary Science, Composite (Grades 6-12).

(36) Secondary or all-level teacher certificate plus 18 semester credit hours in any combination of sciences. The provisions of this paragraph shall expire on July 1, 2015.

§231.65. Science, Grades 7 and 8.

(a) Effective July 1, 2015, all educators assigned to teach Science, Grades 7 and 8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Science, Grades 7 and 8, is allowed with one of the following certificates.

(1) Bilingual Generalist: Grades 4-8.

(2) Chemistry: Grades 7-12.

(3) Chemistry: Grades 8-12 (Grade 8 only).

(4) Elementary Biology.

(5) Elementary Chemistry.

(6) Elementary Earth Science.

(7) Elementary Life/Earth Middle-School Science.

(8) Elementary Physical Science.

(9) Elementary Physics.

(10) Elementary Biology (Grades 1-8).

(11) Elementary Chemistry (Grades 1-8).

(12) Elementary Earth Science (Grades 1-8).

(13) Elementary Life/Earth Middle-School Science (Grades 1-8).

- (14) Elementary Physical Science (Grades 1-8).
- (15) Elementary Physics (Grades 1-8).
- (16) Elementary teacher certificate plus 18 semester credit hours in any combination of sciences. The provisions of this paragraph shall expire on July 1, 2015.
- (17) English as a Second Language Generalist: Grades 4-8.
- (18) Generalist: Grades 4-8.
- (19) Grades 6-12 or Grades 6-8--Biology.
- (20) Grades 6-12 or Grades 6-8--Chemistry.
- (21) Grades 6-12 or Grades 6-8--Earth Science.
- (22) Grades 6-12 or Grades 6-8--Life/Earth Middle-School Science.
- (23) Grades 6-12 or Grades 6-8--Physical Science.
- (24) Grades 6-12 or Grades 6-8--Physics.
- (25) Grades 6-12 or Grades 6-8--Science.
- (26) Grades 6-12 or Grades 6-8--Science, Composite.
- (27) Junior High School or High School--Biology.
- (28) Junior High School or High School--Chemistry.
- (29) Junior High School or High School--Earth Science.
- (30) Junior High School or High School--Life/Earth Middle-School Science.
- (31) Junior High School or High School--Physical Science.
- (32) Junior High School or High School--Physics.
- (33) Junior High School or High School--Science.
- (34) Junior High School or High School--Science, Composite.
- (35) Life Science: Grades 8-12 (Grade 8 only).
- (36) Master Science Teacher (Grades 4-8).
- (37) Master Science Teacher (Grades 8-12) (Grade 8 only).
- (38) Mathematics/Physical Science/Engineering: Grades 6-12.
- (39) Mathematics/Physical Science/Engineering: Grades 8-12 (Grade 8 only).
- (40) Mathematics/Science: Grades 4-8.
- (41) Physical Science: Grades 6-12.
- (42) Physical Science: Grades 8-12 (Grade 8 only).
- (43) Physics/Mathematics: Grades 7-12.
- (44) Physics/Mathematics: Grades 8-12 (Grade 8 only).
- (45) Science: Grades 8-12 (Grade 8 only).
- (46) Science: Grades 4-8.
- (47) Science: Grades 7-12.
- (48) Science: Grades 8-12.
- (49) Secondary Biology (Grades 6-12).
- (50) Secondary Chemistry (Grades 6-12).
- (51) Secondary Earth Science (Grades 6-12).

- (52) Secondary Life/Earth Science (Grades 6-12).
- (53) Secondary Physical Science (Grades 6-12).
- (54) Secondary Physics (Grades 6-12).
- (55) Secondary Science (Grades 6-12).
- (56) Secondary Science, Composite (Grades 6-12).
- (57) Secondary or all-level teacher certificate plus 18 semester credit hours in any combination of sciences. The provisions of this paragraph shall expire on July 1, 2015.
- §231.67. Health, Grades 6-8.
 - (a) Effective July 1, 2015, all educators assigned to teach Health, Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.
 - (b) An assignment in a departmentalized classroom for Health, Grades 6-8, is allowed with one of the following certificates.
 - (1) All-Level Health and Physical Education.
 - (2) All-Level Physical Education.
 - (3) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).
 - (4) Elementary Health.
 - (5) Elementary Health and Physical Education.
 - (6) Elementary Physical Education.
 - (7) Elementary Health (Grades 1-8).
 - (8) Elementary Health and Physical Education (Grades 1-8).
 - (9) Elementary Physical Education (Grades 1-8).
- (10) Elementary teacher certificate plus 12 semester credit hours in health, mental health, consumer health, public health, biology, microbiology, anatomy, physiology, kinesiology, foods, nutrition, family relations, disease control and prevention, safety, drug abuse prevention, or coordinated health programs. The provisions of this paragraph shall expire on July 1, 2015.
- (11) English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (12) Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (13) Grades 6-12 or Grades 6-8--Health.
- (14) Grades 6-12 or Grades 6-8--Physical Education.
- (15) Health: Early Childhood-Grade 12.
- (16) Junior High School or High School--Health.
- (17) Junior High School or High School--Health and Physical Education.
- (18) Junior High School or High School--Physical Education.
- (19) Physical Education: Early Childhood-Grade 12.
- (20) Secondary Health (Grades 6-12).
- (21) Secondary Physical Education (Grades 6-12).
- (22) Secondary or all-level teacher certificate plus 12 semester credit hours in health, mental health, consumer health, public health, biology, microbiology, anatomy, physiology, kinesiology, foods, nutrition, family relations, disease control and prevention,

safety, drug abuse prevention, or coordinated health programs. The provisions of this paragraph shall expire on July 1, 2015.

§231.69. Physical Education, Grades 6-8.

(a) Effective July 1, 2015, all educators assigned to teach Physical Education, Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Physical Education, Grades 6-8, is allowed with one of the following certificates.

- (1) All-Level Health and Physical Education.
- (2) All-Level Physical Education.
- (3) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (4) Elementary Health and Physical Education.
- (5) Elementary Physical Education.
- (6) Elementary Physical Education (Grades 1-8).
- (7) Elementary teacher certificate plus 12 semester credit hours in physical education, including safety and coordinated school health programs. The provisions of this paragraph shall expire on July 1, 2015.
- (8) English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (9) Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (10) Grades 6-12 or Grades 6-8--Physical Education.
- (11) Junior High School or High School--Health and Physical Education.
- (12) Junior High School or High School--Physical Education.
- (13) Physical Education: Early Childhood-Grade 12.
- (14) Secondary Physical Education (Grades 6-12).
- (15) Secondary or all-level teacher certificate plus 12 semester credit hours in physical education, including safety and coordinated school health programs. The provisions of this paragraph shall expire on July 1, 2015.

§231.71. Art, Grades 6-8.

(a) Effective July 1, 2015, all educators assigned to teach Art, Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Art, Grades 6-8, is allowed with one of the following certificates.

- (1) All-Level Art.
- (2) Art: Early Childhood-Grade 12.
- (3) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (4) Elementary Art (Grades 1-8).
- (5) Elementary teacher certificate plus 18 semester credit hours in art. The provisions of this paragraph shall expire on July 1, 2015.
- (6) English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).

(7) Generalist: Early Childhood-Grade 6 (Grade 6 only).

(8) Grades 6-12 or Grades 6-8--Art.

(9) Junior High School or High School--Art.

(10) Secondary Art (Grades 6-12).

(11) Secondary or all-level teacher certificate plus 18 semester credit hours in art. The provisions of this paragraph shall expire on July 1, 2015.

§231.73. Music, Grades 6-8.

(a) Effective July 1, 2015, all educators assigned to teach Music, Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Music, Grades 6-8, is allowed with one of the following certificates.

- (1) All-Level Music.
- (2) Bilingual Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (3) Elementary Music.
- (4) Elementary Music (Grades 1-8).
- (5) Elementary teacher certificate plus 18 semester credit hours in music. The provisions of this paragraph shall expire on July 1, 2015.
- (6) English as a Second Language Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (7) Generalist: Early Childhood-Grade 6 (Grade 6 only).
- (8) Grades 6-12 or Grades 6-8--Music.
- (9) Junior High School or High School--Music.
- (10) Music: Early Childhood-Grade 12.
- (11) Secondary Music (Grades 6-12).
- (12) Secondary or all-level teacher certificate plus 18 semester credit hours in music. The provisions of this paragraph shall expire on July 1, 2015.

§231.75. Theatre, Grades 6-8.

(a) Effective July 1, 2015, all educators assigned to teach Theatre, Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Theatre, Grades 6-8, is allowed with one of the following certificates.

- (1) All-Level Speech and Drama.
- (2) All-Level Speech Communications/Theatre Arts (Prekindergarten-Grade 12).
- (3) Elementary Drama.
- (4) Elementary Theatre Arts (Grades 1-8).
- (5) Elementary teacher certificate plus 18 semester credit hours in theatre arts/drama. The provisions of this paragraph shall expire on July 1, 2015.
- (6) Grades 6-12 or Grades 6-8--Theatre Arts.
- (7) Junior High School or High School--Drama.
- (8) Junior High School or High School--Speech and Drama.
- (9) Secondary Theatre Arts (Grades 6-12).

(10) Secondary or all-level teacher certificate plus 18 semester credit hours in theatre arts/drama. The provisions of this paragraph shall expire on July 1, 2015.

(11) Theatre: Early Childhood-Grade 12.

§231.77. Technology Applications, Grades 6-8.

(a) Effective July 1, 2015, all educators assigned to teach Technology Applications, Grades 6-8, in a departmentalized classroom must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment in a departmentalized classroom for Technology Applications, Grades 6-8, is allowed with one of the following certificates.

(1) Elementary teacher certificate plus verification of competency to teach computer literacy. The provisions of this paragraph shall expire on July 1, 2015.

(2) Grades 6-12 or Grades 6-8--Computer Information Systems.

(3) Information Processing Technologies Endorsement (Level I or II). The provisions of this paragraph shall expire on July 1, 2015.

(4) Junior High School or High School--Computer Information Systems.

(5) Secondary Computer Information Systems (Grades 6-12).

(6) Secondary teacher certificate plus verification of competency to teach computer literacy. The provisions of this paragraph shall expire on July 1, 2015.

(7) Technology Applications: Early Childhood-Grade 12.

(8) Technology Applications: Grades 8-12 (Grade 8 only).

§231.79. Career Development, Grades 6-8.

An assignment in a departmentalized classroom for Career Development, Exploring Careers, or Career Portals, Grades 6-8, for a holder of a valid secondary or all-level certificate is allowed with any vocational or career and technical education classroom teaching certificate specified in §233.13 of this title (relating to Career and Technical Education (Certificates not requiring experience and preparation in a skill area)) or §233.14 of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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SUBCHAPTER D. ELECTIVES, DISCIPLINARY COURSES, LOCAL CREDIT

COURSES, AND INNOVATIVE COURSES, GRADES 6-12 ASSIGNMENTS

19 TAC §§231.91, 231.93, 231.95, 231.97, 231.99, 231.101, 231.103

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.91. Reserve Officers' Training Corps.

(a) An assignment for Reserve Officers' Training Corps (ROTC), Grades 9-12, is allowed with an Emergency Permit. An Emergency Permit for ROTC may not be renewed, but must be reissued every year as specified in §230.77(g)(4) of this title (relating to Specific Requirements for Initial Emergency Permits).

(b) School districts must apply and pay for reissuance of a new ROTC instructor emergency permit each year the instructor serves.

(c) ROTC may be used for Physical Education substitution credit.

§231.93. Athletics; Cheerleading; Drill Team; Marching Band.

(a) An assignment for Athletics, Cheerleading, Drill Team, and Marching Band is allowed with a valid certificate that matches the grade level of the assignment.

(b) Athletics, Cheerleading, Drill Team, and Marching Band may be used for Physical Education substitution credit.

§231.95. Disciplinary Alternative Education Programs.

An assignment for Disciplinary Alternative Education Programs, Grades 9-12, is allowed with one of the following certificates.

(1) An assignment for an In School Suspension Class for students assigned less than six weeks is allowed with a valid Educational Aide III certificate under daily supervision of a teacher certified at the grade level of the assignment.

(2) An assignment for an In School Suspension Class for students assigned more than six weeks is allowed with a valid certificate that matches the grade level of the assignment.

§231.97. Magnet Course; Innovative Course.

An assignment for a Magnet Course or Innovative Course is allowed with a valid certificate that matches the grade level of the assignment or Texas Education Agency approval.

§231.99. Local Credit Course.

An assignment where local credit is given is allowed with a valid certificate that matches the grade level of the assignment or appropriate qualifications as determined by the school district.

§231.101. Advanced Placement Course; International Baccalaureate Course.

An assignment for an Advanced Placement or International Baccalaureate Course is allowed with a valid certificate that matches the subject and grade level of the assignment unless otherwise specified in this chapter.

§231.103. Driver Education, Grades 9-12.

An assignment for Driver Education, Grades 9-12, is allowed with a valid Driver Education Endorsement.

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SUBCHAPTER E. GRADES 9-12

ASSIGNMENTS

DIVISION 1. ENGLISH LANGUAGE ARTS AND READING, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.121, 231.123, 231.125, 231.127, 231.129, 231.131, 231.133, 231.135

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.121. English I-IV, Grades 9-12.

An assignment for English I-IV, Grades 9-12, is allowed with one of the following certificates.

- (1) English Language Arts and Reading: Grades 7-12.
- (2) English Language Arts and Reading: Grades 8-12.
- (3) Grades 6-12 or Grades 9-12--English.
- (4) Grades 6-12 or Grades 9-12--English Language Arts, Composite.
- (5) Junior High School (Grades 9-10 only) or High School--English.
- (6) Junior High School (Grades 9-10 only) or High School--English Language Arts, Composite.
- (7) Secondary English (Grades 6-12).

- (8) Secondary English Language Arts, Composite (Grades 6-12).

§231.123. English I and II for Speakers of Other Languages, Grades 9-12.

(a) Effective July 1, 2015, all educators assigned to teach English I and II for Speakers of Other Languages, Grades 9-12, must hold a valid certificate that matches the subject and grade level of the assignment plus a valid English as a Second Language or bilingual education certificate, supplemental certificate, or endorsement listed in subsection (c) of this section.

(b) An assignment for English I and II for Speakers of Other Languages, Grades 9-12, is allowed with one of the following certificates plus a valid English as a Second Language or bilingual education certificate, supplemental certificate, or endorsement listed in subsection (c) of this section.

- (1) English Language Arts and Reading: Grades 7-12.
- (2) English Language Arts and Reading: Grades 8-12.
- (3) Grades 6-12 or Grades 9-12--English.
- (4) Grades 6-12 or Grades 9-12--English Language Arts, Composite.
- (5) Junior High School (Grades 9-10 only) or High School--English.
- (6) Junior High School (Grades 9-10 only) or High School--English Language Arts, Composite.
- (7) Secondary English (Grades 6-12).
- (8) Secondary English Language Arts, Composite (Grades 6-12).

(c) An assignment for English I and II for Speakers of Other Languages, Grades 9-12, is allowed with one of the following English as a Second Language or bilingual education certificate, supplemental certificate, or endorsement plus a valid certificate listed in subsection (b) of this section.

- (1) Bilingual Education Supplemental.
- (2) Bilingual Education Supplemental (Early Childhood-Grade 4).
- (3) Bilingual Education Supplemental (Grades 4-8).
- (4) Bilingual Endorsement.
- (5) Bilingual/English as a Second Language Endorsement.
- (6) English as a Second Language Endorsement.
- (7) English as a Second Language Supplemental.
- (8) Junior High School (Grades 9-10 only) or High School--Bilingual/English as a Second Language.
- (9) Prekindergarten-Grade 12--Bilingual/English as a Second Language.
- (10) Prekindergarten-Grade 12--English as a Second Language.
- (11) Secondary Bilingual/English as a Second Language (Grades 6-12).

(d) At the discretion of the employing school district, persons assigned to teach English for Speakers of Other Languages (ESOL) I or ESOL II prior to June 21, 2009, may continue in the assignment without holding an English, English Language Arts Composite, or English Language Arts and Reading certificate. If a person is reassigned and

later returns to teach in an ESOL I or ESOL II assignment, current rules will apply. The provisions of this subsection shall expire on July 1, 2015.

§231.125. English as a Second Language, Grades 9-12.

An assignment for English as a Second Language, Grades 9-12, is allowed with a valid classroom teaching certificate appropriate for the grade level and subject areas taught plus one of the following certificates.

- (1) Bilingual Education Supplemental.
- (2) Bilingual Education Supplemental (Early Childhood-Grade 4).
- (3) Bilingual Education Supplemental (Grades 4-8).
- (4) Bilingual Endorsement.
- (5) Bilingual/English as a Second Language Endorsement.
- (6) English as a Second Language Endorsement.
- (7) English as a Second Language Supplemental.
- (8) Junior High School (Grades 9-10 only) or High School--Bilingual/English as a Second Language.
- (9) Prekindergarten-Grade 12--Bilingual/English as a Second Language.
- (10) Prekindergarten-Grade 12--English as a Second Language.
- (11) Secondary Bilingual/English as a Second Language (Grades 6-12).

§231.127. Reading I, II, and III, Grades 9-12.

(a) Effective July 1, 2015, all educators assigned to teach Reading I, II, and III, Grades 9-12, must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment for Reading I, II, and III, Grades 9-12, is allowed with one of the following certificates.

- (1) English Language Arts and Reading: Grades 7-12.
- (2) English Language Arts and Reading: Grades 8-12.
- (3) Grades 6-12 or Grades 9-12--English. This assignment requires verifiable preparation in the teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.
- (4) Grades 6-12 or Grades 9-12--English Language Arts, Composite. This assignment includes at least six semester credit hours in reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.
- (5) Grades 6-12 or Grades 9-12--Reading.
- (6) Junior High School (Grades 9-10 only) or High School--English. This assignment requires verifiable preparation in the teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(7) Junior High School (Grades 9-10 only) or High School--English Language Arts, Composite. This assignment includes at least six semester credit hours in reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(8) Junior High School (Grades 9-10 only) or High School--Reading.

(9) Master Reading Teacher (Early Childhood-Grade 12).

(10) Reading Specialist.

(11) Reading Specialist (Early Childhood-Grade 12).

(12) Secondary English (Grades 6-12). This assignment requires verifiable preparation in the teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(13) Secondary English Language Arts, Composite (Grades 6-12). This assignment includes at least six semester credit hours in reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(14) Secondary Reading (Grades 6-12).

(15) Secondary or all-level teacher certificate plus nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. Initial assignments beginning with the 1990-1991 school year require a teaching field in English plus nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

§231.129. College Readiness and Study Skills, Grades 9-12.

(a) Effective July 1, 2015, all educators assigned to teach College Readiness and Study Skills, Grades 9-12, must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment for College Readiness and Study Skills, Grades 9-12, is allowed with one of the following certificates.

- (1) English Language Arts and Reading: Grades 7-12.
- (2) English Language Arts and Reading: Grades 8-12.
- (3) Grades 6-12 or Grades 9-12--English. This assignment requires verifiable preparation in the teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.
- (4) Grades 6-12 or Grades 9-12--English Language Arts, Composite. This assignment includes at least six semester credit hours in reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.
- (5) Grades 6-12 or Grades 9-12--Reading.

(6) Junior High School (Grades 9-10 only) or High School-English. This assignment requires verifiable preparation in the teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(7) Junior High School (Grades 9-10 only) or High School-English Language Arts, Composite. This assignment includes at least six semester credit hours in reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(8) Junior High School (Grades 9-10 only) or High School-Reading.

(9) Master Reading Teacher (Early Childhood-Grade 12).

(10) Reading Specialist.

(11) Reading Specialist (Early Childhood-Grade 12).

(12) Secondary English (Grades 6-12). This assignment requires verifiable preparation in the teaching of reading such as in-service, seminar, or college course in reading. Initial assignments beginning with the 1990-1991 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(13) Secondary English Language Arts, Composite (Grades 6-12). This assignment includes at least six semester credit hours in reading. Initial assignments beginning with the 2003-2004 school year require nine semester credit hours of upper-division coursework in reading with at least one course in diagnostic reading techniques. The provisions of this paragraph shall expire on July 1, 2015.

(14) Secondary Reading (Grades 6-12).

§231.131. Writing, Grades 9-12.

An assignment for Writing, Research and Technical Writing, Creative Writing, or Practical Writing Skills; Literary Genres; Humanities; Independent Study in English; Visual Media Analysis and Production; or Contemporary Media, Grades 9-12, is allowed with one of the following certificates.

(1) English Language Arts and Reading: Grades 7-12.

(2) English Language Arts and Reading: Grades 8-12.

(3) Grades 6-12 or Grades 9-12--English.

(4) Grades 6-12 or Grades 9-12--English Language Arts, Composite.

(5) Junior High School (Grades 9-10 only) or High School-English.

(6) Junior High School (Grades 9-10 only) or High School-English Language Arts, Composite.

(7) Secondary English (Grades 6-12).

(8) Secondary English Language Arts, Composite (Grades 6-12).

§231.133. Speech, Grades 9-12.

(a) Effective July 1, 2015, all educators assigned to teach Oral Interpretation I, II, and III; Debate I, II, and III; Public Speaking I, II,

and III; Independent Study in Speech; Communications Applications; or Professional Communications, Grades 9-12, must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment for Oral Interpretation I, II, and III; Debate I, II, and III; Public Speaking I, II, and III; Independent Study in Speech; Communications Applications; or Professional Communications, Grades 9-12, is allowed with one of the following certificates.

(1) All-Level Speech and Drama.

(2) All-Level Speech Communications/Theatre Arts (Prekindergarten-Grade 12).

(3) Grades 6-12 or Grades 9-12--Speech Communications.

(4) Junior High School (Grades 9-10 only) or High School-Speech.

(5) Junior High School (Grades 9-10 only) or High School-Speech and Drama.

(6) Junior High School (Grades 9-10 only) or High School-English Language Arts, Composite. This assignment includes at least six semester hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(7) Secondary Speech Communications (Grades 6-12 or Grades 9-12).

(8) Speech: Grades 7-12.

(9) Speech: Grades 8-12.

(c) An assignment for Professional Communications is allowed with a valid career and technical education certificate specified in §233.13 of this title (relating to Career and Technical Education (Certificates not requiring experience and preparation in a skill area)) or §233.14 of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)) with a bachelor's degree and six semester credit hours in speech.

§231.135. Journalism, Grades 9-12.

(a) Effective July 1, 2015, all educators assigned to teach Journalism, Advanced Journalism, Yearbook I-III, Literary Magazine, Newspaper Production I-III, Photojournalism, Advanced Broadcast Journalism I-III, or Independent Study in Journalism, Grades 9-12, must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment for Journalism, Advanced Journalism, Yearbook I-III, Literary Magazine, Newspaper Production I-III, Photojournalism, Advanced Broadcast Journalism I-III, or Independent Study in Journalism, is allowed with one of the following certificates.

(1) Grades 6-12 or Grades 9-12--Journalism.

(2) Grades 6-12 or Grades 9-12--English Language Arts, Composite. This assignment includes at least six semester credit hours in Journalism. The provisions of this paragraph shall expire July 1, 2015.

(3) Journalism: Grades 7-12.

(4) Journalism: Grades 8-12.

(5) Junior High School (Grades 9-10 only) or High School-Journalism.

(6) Junior High School (Grades 9-10 only) or High School-English Language Arts, Composite. This assignment includes at least six semester credit hours in Journalism. The provisions of this paragraph shall expire July 1, 2015.

(7) Secondary Journalism (Grades 6-12).

(8) Secondary English Language Arts, Composite (Grades 6-12). This assignment includes at least six semester credit hours in Journalism. The provisions of this paragraph shall expire July 1, 2015.

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DIVISION 2. LANGUAGES OTHER THAN ENGLISH, GRADES 9-12 ASSIGNMENTS

19 TAC §231.151, §231.153

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.151. Languages Other Than English, Grades 9-12.

(a) Effective July 1, 2015, all educators assigned to teach Languages Other Than English, Exploratory Languages, or Cultural and Linguistic Topics, Grades 9-12, must hold a valid certificate that matches the subject and grade level of the assignment.

(b) An assignment for Languages Other Than English, Exploratory Languages, or Cultural and Linguistic Topics, Grades 9-12, is allowed with one of the following certificates.

(1) Languages Other Than English certificate in the appropriate language (Early Childhood-Grade 12).

(2) Secondary teacher certificate in the appropriate language of assignment.

§231.153. American Sign Language, Grades 9-12.

(a) An assignment for American Sign Language, Grades 9-12, is allowed with one of the following certificates.

(1) American Sign Language.

(2) American Sign Language: Early Childhood-Grade 12.

(b) The Texas Assessment of Sign Communication-American Sign Language (TASC-ASL) is required for an American Sign Language assignment.

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DIVISION 3. SOCIAL STUDIES, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.161, 231.163, 231.165, 231.167, 231.169, 231.171, 231.173

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.161. History, Grades 9-12.

An assignment for History, Grades 9-12, is allowed with one of the following certificates.

(1) Grades 6-12 or Grades 9-12--History.

(2) Grades 6-12 or Grades 9-12--Social Studies.

(3) Grades 6-12 or Grades 9-12--Social Studies, Composite.

(4) History: Grades 7-12.

(5) History: Grades 8-12.

(6) Junior High School (Grades 9-10 only) or High School--History.

(7) Junior High School (Grades 9-10 only) or High School--Social Science, Composite.

(8) Secondary History (Grades 6-12).

(9) Secondary Social Studies (Grades 6-12).

(10) Secondary Social Studies, Composite (Grades 6-12).

(11) Social Studies: Grades 7-12.

(12) Social Studies: Grades 8-12.

§231.163. Geography, Grades 9-12.

An assignment for Geography, Grades 9-12, is allowed with one of the following certificates.

(1) Grades 6-12 or Grades 9-12--Geography.

- (2) Grades 6-12 or Grades 9-12--Social Studies.
- (3) Grades 6-12 or Grades 9-12--Social Studies, Composite.
- (4) Junior High School (Grades 9-10 only) or High School--Geography.
- (5) Junior High School (Grades 9-10 only) or High School--Social Science, Composite.
- (6) Secondary Geography (Grades 6-12).
- (7) Secondary Social Studies (Grades 6-12).
- (8) Secondary Social Studies, Composite (Grades 6-12).
- (9) Social Studies: Grades 7-12.
- (10) Social Studies: Grades 8-12.

§231.165. Government, Grades 9-12.

An assignment for Government, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Government.
- (2) Grades 6-12 or Grades 9-12--Social Studies.
- (3) Grades 6-12 or Grades 9-12--Social Studies, Composite.
- (4) Junior High School (Grades 9-10 only) or High School--Government-Political Science.
- (5) Junior High School (Grades 9-10 only) or High School--Social Science, Composite.
- (6) Secondary Government (Grades 6-12).
- (7) Secondary Social Studies (Grades 6-12).
- (8) Secondary Social Studies, Composite (Grades 6-12).
- (9) Social Studies: Grades 7-12.
- (10) Social Studies: Grades 8-12.

§231.167. Psychology, Grades 9-12.

An assignment for Psychology, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Psychology.
- (2) Grades 6-12 or Grades 9-12--Social Studies.
- (3) Grades 6-12 or Grades 9-12--Social Studies, Composite.
- (4) Junior High School (Grades 9-10 only) or High School--Psychology.
- (5) Junior High School (Grades 9-10 only) or High School--Social Science, Composite.
- (6) Secondary Psychology (Grades 6-12).
- (7) Secondary Social Studies (Grades 6-12).
- (8) Secondary Social Studies, Composite (Grades 6-12).
- (9) Social Studies: Grades 7-12.
- (10) Social Studies: Grades 8-12.

§231.169. Sociology, Grades 9-12.

An assignment for Sociology, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Sociology.
- (2) Grades 6-12 or Grades 9-12--Social Studies.
- (3) Grades 6-12 or Grades 9-12--Social Studies, Composite.
- (4) Junior High School (Grades 9-10 only) or High School--Sociology.
- (5) Junior High School (Grades 9-10 only) or High School--Social Science, Composite.
- (6) Secondary Sociology (Grades 6-12).
- (7) Secondary Social Studies (Grades 6-12).
- (8) Secondary Social Studies, Composite (Grades 6-12).
- (9) Social Studies: Grades 7-12.
- (10) Social Studies: Grades 8-12.

§231.171. Special Topics in Social Studies, Grades 9-12.

An assignment for Social Studies Advanced Studies, Special Topics in Social Studies, or Social Studies Research Methods, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Economics.
- (2) Grades 6-12 or Grades 9-12--Geography.
- (3) Grades 6-12 or Grades 9-12--Government.
- (4) Grades 6-12 or Grades 9-12--History.
- (5) Grades 6-12 or Grades 9-12--Psychology.
- (6) Grades 6-12 or Grades 9-12--Social Studies.
- (7) Grades 6-12 or Grades 9-12--Social Studies, Composite.
- (8) Grades 6-12 or Grades 9-12--Sociology.
- (9) History: Grades 7-12.
- (10) History: Grades 8-12.
- (11) Junior High School (Grades 9-10 only) or High School--Anthropology.
- (12) Junior High School (Grades 9-10 only) or High School--Economics.
- (13) Junior High School (Grades 9-10 only) or High School--Geography.
- (14) Junior High School (Grades 9-10 only) or High School--Government-Political Science.
- (15) Junior High School (Grades 9-10 only) or High School--History.
- (16) Junior High School (Grades 9-10 only) or High School--Psychology.
- (17) Junior High School (Grades 9-10 only) or High School--Social Science, Composite.
- (18) Junior High School (Grades 9-10 only) or High School--Sociology.
- (19) Secondary Economics (Grades 6-12).
- (20) Secondary Geography (Grades 6-12).
- (21) Secondary Government (Grades 6-12).
- (22) Secondary History (Grades 6-12).

- (23) Secondary Psychology (Grades 6-12).
- (24) Secondary Social Studies (Grades 6-12).
- (25) Secondary Social Studies, Composite (Grades 6-12).
- (26) Secondary Sociology (Grades 6-12).
- (27) Social Studies: Grades 7-12.
- (28) Social Studies: Grades 8-12.

§231.173. *Economics with Emphasis on the Free Enterprise System and Its Benefits, Grades 9-12.*

An assignment for Economics with Emphasis on the Free Enterprise System and Its Benefits, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business certificate.
- (2) Grades 6-12 or Grades 9-12--Economics.
- (3) Grades 6-12 or Grades 9-12--Social Studies.
- (4) Grades 6-12 or Grades 9-12--Social Studies, Composite.
- (5) Junior High School (Grades 9-10 only) or High School--Economics.
- (6) Junior High School (Grades 9-10 only) or High School--Social Science, Composite.
- (7) Secondary Economics (Grades 6-12).
- (8) Secondary Social Studies (Grades 6-12).
- (9) Secondary Social Studies, Composite (Grades 6-12).
- (10) Social Studies: Grades 7-12.
- (11) Social Studies: Grades 8-12.

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DIVISION 4. MATHEMATICS, GRADES 9-12 ASSIGNMENTS

19 TAC §231.191

The new section is proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to

propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new section implements the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.191. *Mathematics, Grades 9-12.*

An assignment for Mathematics, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Mathematics.
- (2) Junior High School (Grades 9-10 only) or High School--Mathematics.
- (3) Junior High School (Grades 9-10 only) or High School--Mathematical Science, Composite.
- (4) Master Mathematics Teacher (Grades 8-12).
- (5) Mathematics: Grades 7-12.
- (6) Mathematics: Grades 8-12.
- (7) Mathematics/Physical Science/Engineering: Grades 6-12.
- (8) Mathematics/Physical Science/Engineering: Grades 8-12.
- (9) Physics/Mathematics: Grades 7-12.
- (10) Physics/Mathematics: Grades 8-12.
- (11) Secondary Mathematics (Grades 6-12).

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DIVISION 5. SCIENCE, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.201, 231.203, 231.205, 231.207, 231.209, 231.211, 231.213, 231.215, 231.217, 231.219

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.201. Biology, Grades 9-12.

An assignment for Biology, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Biology.
- (2) Grades 6-12 or Grades 9-12--Science.
- (3) Grades 6-12 or Grades 9-12--Science, Composite.
- (4) Junior High School (Grades 9-10 only) or High School--Biology.
- (5) Junior High School (Grades 9-10 only) or High School--Science.
- (6) Junior High School (Grades 9-10 only) or High School--Science, Composite.
- (7) Life Science: Grades 7-12.
- (8) Life Science: Grades 8-12.
- (9) Master Science Teacher (Grades 8-12).
- (10) Science: Grades 7-12.
- (11) Science: Grades 8-12.
- (12) Secondary Biology (Grades 6-12).
- (13) Secondary Science (Grades 6-12).
- (14) Secondary Science, Composite (Grades 6-12).

§231.203. Chemistry, Grades 9-12.

An assignment for Chemistry, Grades 9-12, is allowed with one of the following certificates.

- (1) Chemistry: Grades 7-12.
- (2) Chemistry: Grades 8-12.
- (3) Grades 6-12 or Grades 9-12--Chemistry.
- (4) Grades 6-12 or Grades 9-12--Science.
- (5) Grades 6-12 or Grades 9-12--Science, Composite.
- (6) Junior High School (Grades 9-10 only) or High School--Chemistry.
- (7) Junior High School (Grades 9-10 only) or High School--Science.
- (8) Junior High School (Grades 9-10 only) or High School--Science, Composite.
- (9) Master Science Teacher (Grades 8-12).
- (10) Mathematics/Physical Science/Engineering: Grades 6-12.
- (11) Mathematics/Physical Science/Engineering: Grades 8-12.
- (12) Physical Science: Grades 6-12.
- (13) Physical Science: Grades 8-12.
- (14) Science: Grades 7-12.
- (15) Science: Grades 8-12.
- (16) Secondary Chemistry (Grades 6-12).
- (17) Secondary Science (Grades 6-12).
- (18) Secondary Science, Composite (Grades 6-12).

§231.205. Physics, Grades 9-12.

An assignment for Physics, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Physics.
- (2) Grades 6-12 or Grades 9-12--Science.
- (3) Grades 6-12 or Grades 9-12--Science, Composite.
- (4) Junior High School (Grades 9-10 only) or High School--Physics.
- (5) Junior High School (Grades 9-10 only) or High School--Science.
- (6) Junior High School (Grades 9-10 only) or High School--Science, Composite.
- (7) Master Science Teacher (Grades 8-12).
- (8) Mathematics/Physical Science/Engineering: Grades 6-12.
- (9) Mathematics/Physical Science/Engineering: Grades 8-12.
- (10) Physical Science: Grades 6-12.
- (11) Physical Science: Grades 8-12.
- (12) Physics/Mathematics: Grades 7-12.
- (13) Physics/Mathematics: Grades 8-12.
- (14) Science: Grades 7-12.
- (15) Science: Grades 8-12.
- (16) Secondary Physics (Grades 6-12).
- (17) Secondary Science (Grades 6-12).
- (18) Secondary Science, Composite (Grades 6-12).

§231.207. Integrated Physics and Chemistry, Grades 9-12.

An assignment for Integrated Physics and Chemistry, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Physical Science.
- (2) Grades 6-12 or Grades 9-12--Science.
- (3) Grades 6-12 or Grades 9-12--Science, Composite.
- (4) Junior High School (Grades 9-10 only) or High School--Chemistry, if issued prior to September 1, 1976. The provisions of this paragraph shall expire on July 1, 2015.
- (5) Junior High School (Grades 9-10 only) or High School--Physical Science.
- (6) Junior High School (Grades 9-10 only) or High School--Physics, if issued prior to September 1, 1976. The provisions of this paragraph shall expire on July 1, 2015.
- (7) Junior High School (Grades 9-10 only) or High School--Science.
- (8) Junior High School (Grades 9-10 only) or High School--Science, Composite.
- (9) Master Science Teacher (Grades 8-12).
- (10) Mathematics/Physical Science/Engineering: Grades 6-12.
- (11) Mathematics/Physical Science/Engineering: Grades 8-12.
- (12) Physical Science: Grades 6-12.

- (13) Physical Science: Grades 8-12.
- (14) Science: Grades 7-12.
- (15) Science: Grades 8-12.
- (16) Secondary Physical Science (Grades 6-12).
- (17) Secondary Science (Grades 6-12).
- (18) Secondary Science, Composite (Grades 6-12).

(19) Secondary or All-Level classroom teaching certificate dated between September 1, 1966, and September 1, 1976, plus 24 semester credit hours in a combination of sciences completed prior to September 1, 1976. The provisions of this paragraph shall expire on July 1, 2015.

§231.209. Principles of Technology, Grades 9-12.

(a) An assignment for Principles of Technology, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Industrial Arts.
- (2) Grades 6-12 or Grades 9-12--Industrial Technology.
- (3) Grades 6-12 or Grades 9-12--Physics.
- (4) Grades 6-12 or Grades 9-12--Science.
- (5) Grades 6-12 or Grades 9-12--Science, Composite.
- (6) Junior High School (Grades 9-10 only) or High School--Industrial Arts.
- (7) Junior High School (Grades 9-10 only) or High School--Physics.
- (8) Junior High School (Grades 9-10 only) or High School--Science, Composite.
- (9) Master Science Teacher (Grades 8-12).
- (10) Mathematics/Physical Science/Engineering: Grades 6-12.
- (11) Mathematics/Physical Science/Engineering: Grades 8-12.
- (12) Physical Science: Grades 6-12.
- (13) Physical Science: Grades 8-12.
- (14) Physics/Mathematics: Grades 7-12.
- (15) Physics/Mathematics: Grades 8-12.
- (16) Science: Grades 7-12.
- (17) Science: Grades 8-12.
- (18) Secondary Industrial Arts (Grades 6-12).
- (19) Secondary Industrial Technology (Grades 6-12).
- (20) Secondary Physics (Grades 6-12).
- (21) Secondary Science (Grades 6-12).
- (22) Secondary Science, Composite (Grades 6-12).
- (23) Technology Education: Grades 6-12.

(b) An assignment for Principles of Technology, Grades 9-12, may also be taught with a vocational agriculture certificate or a trades and industry certificate with verifiable physics applications experience in business and industry, if assigned prior to the 1998-1999 school year. Six semester credit hours of college physics, chemistry, or electricity/electronics may be substituted for the business and industry experience. The provisions of this subsection shall expire on July 1, 2015.

(c) All teachers assigned to Principles of Technology shall participate in Texas Education Agency-approved training and have eight semester credit hours in physics prior to teaching the course. At the discretion of the employing school district, persons assigned to Principles of Technology prior to the 2010-2011 school year may continue in the assignment.

§231.211. Astronomy, Grades 9-12.

An assignment for Astronomy, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Earth Science.
- (2) Grades 6-12 or Grades 9-12--Science.
- (3) Grades 6-12 or Grades 9-12--Science, Composite.
- (4) Junior High School (Grades 9-10 only) or High School--Earth Science.
- (5) Junior High School (Grades 9-10 only) or High School--Science.
- (6) Junior High School (Grades 9-10 only) or High School--Science, Composite.
- (7) Master Science Teacher (Grades 8-12).
- (8) Physical Science: Grades 6-12.
- (9) Physical Science: Grades 8-12.
- (10) Physics/Mathematics: Grades 7-12.
- (11) Physics/Mathematics: Grades 8-12.
- (12) Science: Grades 7-12.
- (13) Science: Grades 8-12.
- (14) Secondary Earth Science (Grades 6-12).
- (15) Secondary Physics (Grades 6-12).
- (16) Secondary Science (Grades 6-12).
- (17) Secondary Science, Composite (Grades 6-12).

§231.213. Earth and Space Science, Grades 9-12.

An assignment for Earth and Space Science, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Earth Science.
- (2) Grades 6-12 or Grades 9-12--Science.
- (3) Grades 6-12 or Grades 9-12--Science, Composite.
- (4) Junior High School (Grades 9-10 only) or High School--Earth Science.
- (5) Junior High School (Grades 9-10 only) or High School--Science.
- (6) Junior High School (Grades 9-10 only) or High School--Science, Composite.
- (7) Master Science Teacher (Grades 8-12).
- (8) Science: Grades 7-12.
- (9) Science: Grades 8-12.
- (10) Secondary Earth Science (Grades 6-12).
- (11) Secondary Science (Grades 6-12).
- (12) Secondary Science, Composite (Grades 6-12).

§231.215. Environmental Systems, Environmental Science, and Aquatic Science, Grades 9-12.

(a) An assignment for Environmental Systems, Advanced Placement (AP) Environmental Science, International Baccalaureate (IB) Environmental Systems, or Aquatic Science, Grades 9-12, is allowed with one of the following certificates.

- (1) Chemistry: Grades 7-12.
- (2) Chemistry: Grades 8-12.
- (3) Grades 6-12 or Grades 9-12--Biology.
- (4) Grades 6-12 or Grades 9-12--Earth Science.
- (5) Grades 6-12 or Grades 9-12--Science.
- (6) Grades 6-12 or Grades 9-12--Science, Composite.
- (7) Junior High School (Grades 9-10 only) or High School--Biology.
- (8) Junior High School (Grades 9-10 only) or High School--Earth Science.
- (9) Junior High School (Grades 9-10 only) or High School--Science.
- (10) Junior High School (Grades 9-10 only) or High School--Science, Composite.

- (11) Life Science: Grades 7-12 or Grades 8-12.
- (12) Master Science Teacher (Grades 8-12).
- (13) Science: Grades 7-12.
- (14) Science: Grades 8-12.
- (15) Secondary Biology (Grades 6-12).
- (16) Secondary Earth Science (Grades 6-12).
- (17) Secondary Science (Grades 6-12).
- (18) Secondary Science, Composite (Grades 6-12).

(b) An assignment for Environmental Systems, AP Environmental Science, or IB Environmental Systems, Grades 9-12, is allowed with a valid secondary or all-level teacher certificate plus 24 semester credit hours in science, including at least 12 semester credit hours in environmental science and/or ecology if assigned prior to the 1989-1990 school year or any science teaching certificate with 12 semester credit hours in environmental science and/or ecology.

§231.217. Anatomy and Physiology, Medical Microbiology, and Pathophysiology, Grades 9-12.

An assignment for Anatomy and Physiology, Medical Microbiology, or Pathophysiology, Grades 9-12, is allowed with one of the following certificates.

- (1) Grades 6-12 or Grades 9-12--Biology.
- (2) Grades 6-12 or Grades 9-12--Science.
- (3) Grades 6-12 or Grades 9-12--Science, Composite.
- (4) Health Science: Grades 6-12.
- (5) Health Science Technology.
- (6) Health Science Technology Education: Grades 8-12.
- (7) Junior High School (Grades 9-10 only) or High School--Biology.
- (8) Junior High School (Grades 9-10 only) or High School--Science.

(9) Junior High School (Grades 9-10 only) or High School--Science, Composite.

- (10) Life Science: Grades 7-12.
- (11) Life Science: Grades 8-12.
- (12) Master Science Teacher (Grades 8-12).
- (13) Science: Grades 7-12.
- (14) Science: Grades 8-12.
- (15) Secondary Biology (Grades 6-12).
- (16) Secondary Science (Grades 6-12).
- (17) Secondary Science, Composite (Grades 6-12).
- (18) Vocational Handicapped Health.
- (19) Vocational Health Occupations.
- (20) Vocational Health Occupations/Cooperative Training.
- (21) Vocational Health Occupations/Pre-employment Lab.

§231.219. Scientific Research and Design, Grades 9-12.

An assignment for Scientific Research and Design, Grades 9-12, is allowed with one of the following certificates.

(1) Any vocational or career and technical education certificate specified in §233.13 of this title (relating to Career and Technical Education (Certificates not requiring experience and preparation in a skill area)) or §233.14 of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)) with a bachelor's degree and 18 semester credit hours in any combination of sciences.

(2) Any science certificate valid for Grades 6-12, Grades 7-12, or Grades 8-12.

(3) Any secondary science teaching field.

(4) Master Science Teacher (Grades 8-12).

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DIVISION 6. HEALTH AND PHYSICAL EDUCATION, GRADES 9-12 ASSIGNMENTS

19 TAC §231.231

The new section is proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21,

Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new section implements the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.231. Health and Physical Education, Grades 9-12.

(a) An assignment for Health, Grades 9-12, is allowed with one of the following certificates.

- (1) All-Level Health and Physical Education.
- (2) Grades 6-12 or Grades 9-12--Health.
- (3) Health: Early Childhood-Grade 12.
- (4) Junior High School (Grades 9-10 only) or High School--Health.
- (5) Junior High School (Grades 9-10 only) or High School--Health and Physical Education.
- (6) Secondary Health (Grades 6-12).

(b) An assignment for Physical Education, Grades 9-12, is allowed with one of the following certificates.

- (1) All-Level Health and Physical Education.
- (2) All-Level Physical Education.
- (3) Grades 6-12 or Grades 9-12--Physical Education.
- (4) Junior High School (Grades 9-10 only) or High School--Physical Education.
- (5) Junior High School (Grades 9-10 only) or High School--Health and Physical Education.
- (6) Physical Education: Early Childhood-Grade 12.
- (7) Secondary Physical Education (Grades 6-12).

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DIVISION 7. FINE ARTS, GRADES 9-12 ASSIGNMENTS

19 TAC §231.241

The new section is proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21,

Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new section implements the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.241. Art, Music, Theatre, and Dance, Grades 9-12.

(a) An assignment for Art, Grades 9-12, is allowed with one of the following certificates.

- (1) All-Level Art.
- (2) Art: Early Childhood-Grade 12.
- (3) Grades 6-12 or Grades 9-12--Art.
- (4) Junior High School (Grades 9-10 only) or High School--Art.
- (5) Secondary Art (Grades 6-12).

(b) An assignment for Music, Grades 9-12, is allowed with one of the following certificates.

- (1) All-Level Music.
- (2) Grades 6-12 or Grades 9-12--Music.
- (3) Junior High School (Grades 9-10 only) or High School--Music.
- (4) Music: Early Childhood-Grade 12.
- (5) Secondary Music (Grades 6-12).

(c) An assignment for Theatre, Grades 9-12, is allowed with one of the following certificates.

- (1) All-Level Speech/Drama.
- (2) All-Level Speech Communications/Theatre Arts (Prekindergarten-Grade 12).
- (3) All-Level Theatre Arts (Prekindergarten-Grade 12).
- (4) Grades 6-12 or Grades 9-12--Theatre Arts.
- (5) Junior High School (Grades 9-10 only) or High School--Drama.
- (6) Junior High School (Grades 9-10 only) or High School--Speech and Drama.
- (7) Secondary Theatre Arts (Grades 6-12).
- (8) Theatre: Early Childhood-Grade 12.

(d) An assignment for Dance for Fine Arts credit, Grades 9-12, is allowed with one of the following certificates.

- (1) Dance: Grades 8-12.
- (2) Grades 6-12 or Grades 9-12--Dance.
- (3) Junior High School (Grades 9-10 only) or High School--Dance.
- (4) Secondary Dance (Grades 6-12).

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DIVISION 8. TECHNOLOGY APPLICATIONS, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.251, 231.253, 231.255, 231.257

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.251. Computer Science, Grades 9-12.

An assignment for Fundamentals of Computer Science; Computer Science I, II, and III; Digital Forensics; or Robotics Programming and Design, Grades 9-12, is allowed with one of the following certificates.

- (1) Computer Science: Grades 8-12.
- (2) Grades 6-12 or Grades 9-12--Computer Information Systems.
- (3) Junior High School (Grades 9-10 only) or High School--Computer Information Systems.
- (4) Secondary Computer Information Systems (Grades 6-12).

§231.253. Technology Applications, Grades 9-12.

An assignment for Digital Video and Audio Design, Web Communications, Digital Design and Media Production, Digital Art and Animation, 3-D Modeling and Animation, Digital Communications in the 21st Century, Web Design, Web Game Development, Independent Study in Technology Applications, or Independent Study in Evolving/Emerging Technologies, Grades 9-12, is allowed with one of the following certificates.

- (1) Technology Applications: Early Childhood-Grade 12.
- (2) Technology Applications: Grades 7-12.
- (3) Technology Applications: Grades 8-12.

§231.255. Discrete Mathematics, Grades 9-12.

An assignment for Discrete Mathematics, Grades 9-12, is allowed with one of the following certificates.

- (1) Computer Science: Grades 8-12.
- (2) Grades 6-12 or Grades 9-12--Computer Information Systems.
- (3) Junior High School (Grades 9-10 only) or High School--Computer Information Systems.

- (4) Master Mathematics Teacher (Grades 8-12).
- (5) Mathematics: Grades 7-12.
- (6) Mathematics: Grades 8-12.
- (7) Mathematics/Physical Science/Engineering: Grades 6-12.
- (8) Mathematics/Physical Science/Engineering: Grades 8-12.
- (9) Physics/Mathematics: Grades 7-12.
- (10) Physics/Mathematics: Grades 8-12.
- (11) Secondary Computer Information Systems (Grades 6-12).

§231.257. Game Programming and Design or Mobile Application Development, Grades 9-12.

An assignment for Game Programming and Design or Mobile Application Development, Grades 9-12, is allowed with one of the following certificates.

- (1) Computer Science: Grades 8-12.
- (2) Grades 6-12 or Grades 9-12--Computer Information Systems.
- (3) Junior High School (Grades 9-10 only) or High School--Computer Information Systems.
- (4) Secondary Computer Information Systems (Grades 6-12).
- (5) Technology Applications: Early Childhood-Grade 12.
- (6) Technology Applications: Grades 7-12.
- (7) Technology Applications: Grades 8-12.

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DIVISION 9. CAREER DEVELOPMENT, GRADES 9-12 ASSIGNMENTS

19 TAC §231.271

The new section is proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to

propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new section implements the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.271. Career Development, Grades 9-12.

(a) Subject to the requirements in subsection (c) of this section, an assignment for Career Preparation I and II, Grades 9-12, is allowed with any vocational or career and technical education (CTE) classroom teaching certificate specified in §233.13 of this title (relating to Career and Technical Education (Certificates not requiring experience and preparation in a skill area)) or §233.14 of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)).

(b) An assignment for Problems and Solutions, Grades 9-12, is allowed with any vocational or CTE classroom teaching certificate specified in §233.13 of this title or §233.14 of this title.

(c) The school district is responsible for ensuring that each teacher assigned to Career Preparation I and II, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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DIVISION 10. AGRICULTURE, FOOD, AND NATURAL RESOURCES, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.281, 231.283, 231.285, 231.287, 231.289, 231.291

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.281. Agriculture, Food, and Natural Resources, Grades 9-12.

(a) An assignment for Advanced Environmental Technology; Equine Science; Food Processing; Food Technology and Safety; Forestry and Woodland Ecosystems; Horticulture Science; Landscape Design and Turf Grass Management; Livestock Production; Principles

of Agriculture, Food, and Natural Resources; Professional Standards in Agribusiness; Range Ecology and Management; Small Animal Management; Veterinary Medical Applications; or Wildlife, Fisheries, and Ecology Management, Grades 9-12, is allowed with one of the following certificates.

(1) Agriculture, Food, and Natural Resources: Grades 6-12.

(2) Agricultural Science and Technology: Grades 6-12.

(3) Any vocational agriculture certificate.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Agriculture, Food, and Natural Resources, Grades 9-12, is allowed with one of the following certificates.

(1) Agriculture, Food, and Natural Resources: Grades 6-12.

(2) Agricultural Science and Technology: Grades 6-12.

(3) Any vocational agriculture certificate.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Agriculture, Food, and Natural Resources, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.283. Advanced Animal Science and Advanced Plant and Soil Science, Grades 9-12.

(a) Subject to the requirements in subsection (b) of this section, an assignment for Advanced Animal Science or Advanced Plant and Soil Science, Grades 9-12, is allowed with one of the following certificates.

(1) Agriculture, Food, and Natural Resources: Grades 6-12.

(2) Agricultural Science and Technology: Grades 6-12.

(3) Any vocational agriculture certificate.

(4) Life Science: Grades 7-12.

(5) Life Science: Grades 8-12.

(6) Master Science Teacher (Grades 8-12).

(7) Science: Grades 7-12.

(8) Science: Grades 8-12.

(9) Secondary Biology (Grades 6-12).

(10) Secondary Science, Composite (Grades 6-12).

(b) All teachers assigned to these courses shall participate in Texas Education Agency (TEA)-approved training prior to teaching these courses effective with the 2013-2014 school year. Teachers assigned to these courses in the 2010-2011, 2011-2012, and/or 2012-2013 school years will have 12 months from the date the training is first offered to complete the TEA-approved training requirement.

§231.285. Agribusiness Management and Marketing, Grades 9-12. An assignment for Agribusiness Management and Marketing, Grades 9-12, is allowed with one of the following certificates.

(1) Agriculture, Food, and Natural Resources: Grades 6-12.

(2) Agricultural Science and Technology: Grades 6-12.

(3) Any business or office education certificate.

(4) Any marketing or distributive education certificate.

- (5) Any vocational agriculture certificate.
- (6) Business and Finance: Grades 6-12.
- (7) Business Education: Grades 6-12.
- (8) Marketing: Grades 6-12.
- (9) Marketing Education: Grades 8-12.

§231.287. *Mathematical Applications in Agriculture, Food, and Natural Resources, Grades 9-12.*

(a) Subject to the requirements in subsection (b) of this section, an assignment for Mathematical Applications in Agriculture, Food, and Natural Resources, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Agricultural Science and Technology: Grades 6-12.
- (3) Any vocational agriculture certificate.
- (4) Master Mathematics Teacher (Grades 8-12).
- (5) Mathematics: Grades 7-12.
- (6) Mathematics: Grades 8-12.
- (7) Mathematics/Physical Science/Engineering: Grades 6-12.
- (8) Mathematics/Physical Science/Engineering: Grades 8-12.
- (9) Physics/Mathematics: Grades 7-12.
- (10) Physics/Mathematics: Grades 8-12.
- (11) Secondary Mathematics (Grades 6-12).

(b) All teachers assigned to this course shall participate in Texas Education Agency (TEA)-approved training prior to teaching this course effective with the 2013-2014 school year. Teachers assigned to this course in the 2010-2011, 2011-2012, and/or 2012-2013 school years will have 12 months from the date the training is first offered to complete the TEA-approved training requirement.

§231.289. *Agricultural Facilities Design and Fabrication; Agricultural Mechanics and Metal Technologies; Agricultural Power Systems; Energy and Natural Resources Technology, Grades 9-12.*

An assignment for Agricultural Facilities Design and Fabrication, Agricultural Mechanics and Metal Technologies, Agricultural Power Systems, or Energy and Natural Resources Technology, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Agricultural Science and Technology: Grades 6-12.
- (3) Any vocational agriculture certificate.
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Education: Grades 6-12.
- (7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (9) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.291. *Principles and Elements of Floral Design, Grades 9-12.*

An assignment for Principles and Elements of Floral Design, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Agricultural Science and Technology: Grades 6-12.
- (3) All-Level Art (Prekindergarten-Grade 12).
- (4) Any vocational agriculture certificate.
- (5) Art: Early Childhood-Grade 12.
- (6) Secondary Art (Grades 6-12).
- (7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (9) Vocational Trades and Industry. This assignment requires appropriate work approval.

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DIVISION 11. ARCHITECTURE AND CONSTRUCTION, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.301, 231.303, 231.305, 231.307, 231.309, 231.311, 231.313

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.301. *Principles of Architecture and Construction, Grades 9-12.*

An assignment for Principles of Architecture and Construction, Grades 9-12, is allowed with one of the following certificates.

- (1) Any home economics or homemaking certificate.

- 6-12. (2) Family and Consumer Sciences, Composite: Grades 6-12.
- 6-12. (3) Mathematics/Physical Science/Engineering: Grades 6-12.
- 8-12. (4) Mathematics/Physical Science/Engineering: Grades 8-12.
- (5) Secondary Industrial Arts (Grades 6-12).
- (6) Secondary Industrial Technology (Grades 6-12).
- (7) Technology Education: Grades 6-12.
- (8) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (9) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (10) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.303. Interior Design, Grades 9-12.

(a) An assignment for Interior Design or Advanced Interior Design, Grades 9-12, is allowed with one of the following certificates.

- (1) Any home economics or homemaking certificate.
- (2) Family and Consumer Sciences, Composite: Grades 6-12.
- (b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Interior Design, Grades 9-12, is allowed with one of the following certificates.

- (1) Any home economics or homemaking certificate.
- (2) Family and Consumer Sciences, Composite: Grades 6-12.
- (c) The school district is responsible for ensuring that each teacher assigned to Practicum in Interior Design, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.305. Architectural Design, Grades 9-12.

(a) An assignment for Architectural Design or Advanced Architectural Design, Grades 9-12, is allowed with one of the following certificates.

- (1) Mathematics/Physical Science/Engineering: Grades 6-12.
- (2) Mathematics/Physical Science/Engineering: Grades 8-12.
- (3) Secondary Industrial Arts (Grades 6-12).
- (4) Secondary Industrial Technology (Grades 6-12).
- (5) Technology Education: Grades 6-12.
- (6) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (7) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (8) Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Architectural Design, Grades 9-12, is allowed with one of the following certificates.

- 6-12. (1) Mathematics/Physical Science/Engineering: Grades 6-12.
- 8-12. (2) Mathematics/Physical Science/Engineering: Grades 8-12.
- (3) Secondary Industrial Arts (Grades 6-12).
- (4) Secondary Industrial Technology (Grades 6-12).
- (5) Technology Education: Grades 6-12.
- (6) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (7) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (8) Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Architectural Design, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.307. Construction Management and Construction Technology, Grades 9-12.

(a) An assignment for Construction Management, Advanced Construction Management, Construction Technology, or Advanced Construction Technology, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Any vocational agriculture certificate.
- (3) Mathematics/Physical Science/Engineering: Grades 6-12.
- (4) Mathematics/Physical Science/Engineering: Grades 8-12.
- (5) Secondary Industrial Arts (Grades 6-12).
- (6) Secondary Industrial Technology (Grades 6-12).
- (7) Technology Education: Grades 6-12.
- (8) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (9) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (10) Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Construction Management, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Any vocational agriculture certificate.
- (3) Mathematics/Physical Science/Engineering: Grades 6-12.
- (4) Mathematics/Physical Science/Engineering: Grades 8-12.
- (5) Secondary Industrial Arts (Grades 6-12).
- (6) Secondary Industrial Technology (Grades 6-12).

(7) Technology Education: Grades 6-12.

(8) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(9) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(10) Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Construction Management, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.309. Building Maintenance Technology, Grades 9-12.

An assignment for Building Maintenance Technology or Advanced Building Maintenance Technology, Grades 9-12, is allowed with one of the following certificates.

(1) Agriculture, Food, and Natural Resources: Grades 6-12.

(2) Agricultural Science and Technology: Grades 6-12.

(3) Any vocational agriculture certificate.

(4) Secondary Industrial Arts (Grades 6-12).

(5) Secondary Industrial Technology (Grades 6-12).

(6) Technology Education: Grades 6-12.

(7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(9) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.311. Mill and Cabinetmaking Technology, Grades 9-12.

An assignment for Mill and Cabinetmaking Technology, Grades 9-12, is allowed with one of the following certificates.

(1) Secondary Industrial Arts (Grades 6-12).

(2) Secondary Industrial Technology (Grades 6-12).

(3) Technology Education: Grades 6-12.

(4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(6) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.313. Electrical Technology; Heating, Ventilation, Air Conditioning, and Refrigeration Technology; and Piping and Plumbing Technology, Grades 9-12.

An assignment for Electrical Technology; Advanced Electrical Technology; Heating, Ventilation, and Air Conditioning (HVAC) and Refrigeration Technology; Advanced HVAC and Refrigeration Technology; Piping and Plumbing Technology; or Advanced Piping and Plumbing Technology, Grades 9-12, is allowed with one of the following certificates.

(1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(3) Vocational Trades and Industry. This assignment requires appropriate work approval.

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DIVISION 12. ARTS, AUDIO VIDEO TECHNOLOGY, AND COMMUNICATIONS, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.331, 231.333, 231.335, 231.337, 231.339, 231.341, 231.343

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.331. Professional Communications, Grades 9-12.

An assignment for Professional Communications, Grades 9-12, is allowed with one of the following certificates.

(1) All-Level Speech and Drama/Theatre Arts (Prekindergarten-Grade 12).

(2) Any vocational or career and technical education classroom teaching certificate specified in §233.13 of this title (relating to Career and Technical Education (Certificates not requiring experience and preparation in a skill area)) or §233.14 of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)) with a minimum of a bachelor's degree and six semester credit hours in speech.

(3) Mathematics/Physical Science/Engineering: Grades 6-12. This assignment requires six semester credit hours in speech.

(4) Mathematics/Physical Science/Engineering: Grades 8-12. This assignment requires six semester credit hours in speech.

(5) Secondary English Language Arts, Composite (Grades 6-12). This assignment requires six semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

- (6) Secondary Speech (Grades 6-12).
- (7) Secondary Speech Communications (Grades 6-12).
- (8) Speech: Grades 7-12.
- (9) Speech: Grades 8-12.

§231.333. Principles of Arts, Audio Video Technology, and Communications, Grades 9-12.

An assignment for Principles of Arts, Audio Video Technology, and Communications, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Education: Grades 6-12.
- (7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (9) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.335. Animation, Grades 9-12.

An assignment for Animation or Advanced Animation, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Applications: Early Childhood-Grade 12.
- (7) Technology Applications: Grades 7-12.
- (8) Technology Applications: Grades 8-12.
- (9) Technology Education: Grades 6-12.
- (10) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (11) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (12) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.337. Audio Video Production; Graphic Design and Illustration, Grades 9-12.

(a) An assignment for Audio Video Production, Advanced Audio Video Production, Graphic Design and Illustration, or Advanced Graphic Design and Illustration, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Industrial Arts (Grades 6-12).
- (2) Secondary Industrial Technology (Grades 6-12).
- (3) Technology Applications: Early Childhood-Grade 12.
- (4) Technology Applications: Grades 7-12.

(5) Technology Applications: Grades 8-12.

(6) Technology Education: Grades 6-12.

(7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(9) Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Audio Video Production or Practicum in Graphic Design and Illustration, Grades 9-12, is allowed with one of the following certificates.

(1) Secondary Industrial Arts (Grades 6-12).

(2) Secondary Industrial Technology (Grades 6-12).

(3) Technology Education: Grades 6-12.

(4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(6) Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Audio Video Production or Practicum in Graphic Design and Illustration, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.339. Photography, Grades 9-12.

An assignment for Commercial Photography or Advanced Commercial Photography, Grades 9-12, is allowed with one of the following certificates.

(1) Secondary Industrial Arts (Grades 6-12).

(2) Secondary Industrial Technology (Grades 6-12).

(3) Technology Education: Grades 6-12.

(4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(6) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.341. Printing and Imaging Technology, Grades 9-12.

(a) An assignment for Printing and Imaging Technology or Advanced Printing and Imaging Technology, Grades 9-12, is allowed with one of the following certificates.

(1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(3) Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Printing and Imaging Technology, Grades 9-12, is allowed with one of the following certificates.

(1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(3) Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Printing and Imaging Technology, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.343. Fashion Design, Grades 9-12.

(a) An assignment for Fashion Design or Advanced Fashion Design, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

(2) Family and Consumer Sciences, Composite: Grades 6-12.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Fashion Design, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

(2) Family and Consumer Sciences, Composite: Grades 6-12.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Fashion Design, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

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DIVISION 13. BUSINESS MANAGEMENT AND ADMINISTRATION, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.361, 231.363, 231.365

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.361. Accounting; Business Information Management; Business Law; Financial Analysis; Insurance Operations; Securities and Investments; and Touch System Data Entry, Grades 9-12.

(a) An assignment for Accounting I and II, Business Information Management I and II, Business Law, Financial Analysis, Insurance Operations, Securities and Investments, or Touch System Data Entry, Grades 9-12, is allowed with one of the following certificates.

(1) Any business or office education certificate.

(2) Business and Finance: Grades 6-12.

(3) Business Education: Grades 6-12.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Business Management, Grades 9-12, is allowed with one of the following certificates.

(1) Any business or office education certificate.

(2) Business and Finance: Grades 6-12.

(3) Business Education: Grades 6-12.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Business Management, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.363. Business Management; Global Business; Human Resources Management; Principles of Business, Marketing and Finance; and Virtual Business, Grades 9-12.

An assignment for Business Management; Global Business; Human Resources Management; Principles of Business, Marketing, and Finance; or Virtual Business, Grades 9-12, is allowed with one of the following certificates.

(1) Any business or office education certificate.

(2) Any marketing or distributive education certificate.

(3) Business and Finance: Grades 6-12.

(4) Business Education: Grades 6-12.

(5) Marketing: Grades 6-12.

(6) Marketing Education: Grades 8-12.

§231.365. Statistics and Risk Management, Grades 9-12.

(a) Subject to the requirements in subsection (b) of this section, an assignment for Statistics and Risk Management, Grades 9-12, is allowed with one of the following certificates.

(1) Any business or office education certificate.

(2) Business and Finance: Grades 6-12.

(3) Business Education: Grades 6-12.

(4) Master Mathematics Teacher (Grades 8-12).

(5) Mathematics: Grades 7-12.

(6) Mathematics: Grades 8-12.

(7) Mathematics/Physical Science/Engineering: Grades 6-12.

(8) Mathematics/Physical Science/Engineering: Grades 8-12.

(9) Physics/Mathematics: Grades 7-12.

(10) Physics/Mathematics: Grades 8-12.

(11) Secondary Mathematics (Grades 6-12).

(b) All teachers assigned to this course shall participate in Texas Education Agency (TEA)-approved training prior to teaching this course effective with the 2013-2014 school year. Teachers assigned to this course in the 2010-2011, 2011-2012, and/or 2012-2013 school years will have 12 months from the date the training is first offered to complete the TEA-approved training requirement.

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DIVISION 14. EDUCATION AND TRAINING, GRADES 9-12 ASSIGNMENTS

19 TAC §231.381, §231.383

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.381. Education and Training, Grades 9-12.

(a) An assignment for Instructional Practices in Education and Training or Principles of Education and Training, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

6-12. (2) Family and Consumer Sciences, Composite: Grades

8-12. (3) Human Development and Family Studies: Grades

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Education and Training, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

6-12. (2) Family and Consumer Sciences, Composite: Grades

8-12. (3) Human Development and Family Studies: Grades

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Education and Training, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.383. Human Growth and Development, Grades 9-12.

An assignment for Human Growth and Development, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

6-12. (2) Family and Consumer Sciences, Composite: Grades

(3) Health Science: Grades 6-12.

(4) Health Science Technology.

(5) Health Science Technology Education: Grades 8-12.

8-12. (6) Human Development and Family Studies: Grades

(7) Vocational Health Occupations.

(8) Vocational Health Science Technology.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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DIVISION 15. GOVERNMENT AND PUBLIC ADMINISTRATION, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.401, 231.403, 231.405

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.401. Government and Public Administration, Grades 9-12.

(a) An assignment for Foreign Service and Diplomacy, Planning and Governance, Political Science I and II, Principles of Government and Public Administration, or Public Management and Administration, Grades 9-12, is allowed with one of the following.

(1) Secondary Government (Grades 6-12).

- (2) Secondary Political Science (Grades 6-12).
- (3) Secondary Social Science, Composite (Grades 6-12).
- (4) Secondary Social Studies, Composite (Grades 6-12).
- (5) Social Studies: Grades 7-12.
- (6) Social Studies: Grades 8-12.

(7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(9) Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Local, State, and Federal Government, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Government (Grades 6-12).
- (2) Secondary Political Science (Grades 6-12).
- (3) Secondary Social Science, Composite (Grades 6-12).
- (4) Secondary Social Studies, Composite (Grades 6-12).
- (5) Social Studies: Grades 7-12.
- (6) Social Studies: Grades 8-12.

(7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(9) Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Local, State, and Federal Government, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.403. *Revenue, Taxation, and Regulation, Grades 9-12.*

An assignment for Revenue, Taxation, and Regulation, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Secondary Social Science, Composite (Grades 6-12).
- (5) Secondary Social Studies, Composite (Grades 6-12).
- (6) Social Studies: Grades 7-12.
- (7) Social Studies: Grades 8-12.

§231.405. *National Security, Grades 9-12.*

An assignment for National Security, Grades 9-12, is allowed with one of the following certificates.

- (1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (3) Vocational Trades and Industry. This assignment requires appropriate work approval.

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DIVISION 16. HEALTH SCIENCE, GRADES 9-12 ASSIGNMENTS

19 TAC §231.421, §231.423

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.421. *Health Science, Grades 9-12.*

(a) An assignment for Health Science, Medical Terminology, Principles of Health Science, or World Health Research, Grades 9-12, is allowed with one of the following certificates.

- (1) Health Science: Grades 6-12.
- (2) Health Science Technology Education: Grades 8-12.
- (3) Vocational Health Occupations.
- (4) Vocational Health Science Technology.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Health Science, Grades 9-12, is allowed with one of the following certificates.

- (1) Health Science: Grades 6-12.
- (2) Health Science Technology Education: Grades 8-12.
- (3) Vocational Health Occupations.
- (4) Vocational Health Science Technology.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Health Science, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.423. *Anatomy and Physiology, Medical Microbiology, and Pathophysiology, Grades 9-12.*

An assignment for Anatomy and Physiology, Medical Microbiology, or Pathophysiology, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Biology (Grades 6-12).
- (2) Secondary Science (Grades 6-12).
- (3) Secondary Science, Composite (Grades 6-12).
- (4) Health Science: Grades 6-12.
- (5) Health Science Technology Education: Grades 8-12.
- (6) Life Science: Grades 7-12.
- (7) Life Science: Grades 8-12.
- (8) Master Science Teacher (Grades 8-12).
- (9) Science: Grades 7-12.
- (10) Science: Grades 8-12.
- (11) Vocational Health Occupations.
- (12) Vocational Health Science Technology.

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DIVISION 17. HOSPITALITY AND ADMINISTRATION, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.441, 231.443, 231.445

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.441. Hospitality and Tourism, Grades 9-12.

(a) An assignment for Hospitality Services, Hotel Management, Principles of Hospitality and Tourism, Restaurant Management, or Travel and Tourism Management, Grades 9-12, is allowed with one of the following certificates.

- (1) Any home economics or homemaking certificate.
- (2) Any marketing or distributive education certificate.
- (3) Family and Consumer Sciences, Composite: Grades

6-12.

8-12.

(5) Marketing: Grades 6-12.

(6) Marketing Education: Grades 8-12.

(7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(9) Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Hospitality and Tourism, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

(2) Any marketing or distributive education certificate.

(3) Family and Consumer Sciences, Composite: Grades

6-12.

(4) Hospitality, Nutrition, and Food Sciences: Grades

8-12.

(5) Marketing: Grades 6-12.

(6) Marketing Education: Grades 8-12.

(7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(9) Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Hospitality and Tourism, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.443. Culinary Arts, Grades 9-12.

(a) An assignment for Culinary Arts, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

(2) Family and Consumer Sciences, Composite: Grades

6-12.

(3) Hospitality, Nutrition, and Food Sciences: Grades

8-12.

(4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(6) Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Culinary Arts, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

(2) Family and Consumer Sciences, Composite: Grades

6-12.

(3) Hospitality, Nutrition, and Food Sciences: Grades 8-12.

(4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(6) Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Culinary Arts, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.445. Food Science, Grades 9-12.

(a) Subject to the requirements in subsection (b) of this section, an assignment for Food Science, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

(2) Chemistry: Grades 7-12.

(3) Chemistry: Grades 8-12.

(4) Family and Consumer Sciences, Composite: Grades 6-12.

(5) Hospitality, Nutrition, and Food Sciences: Grades 8-12.

(6) Life Science: Grades 7-12.

(7) Life Science: Grades 8-12.

(8) Master Science Teacher (Grades 8-12).

(9) Science: Grades 7-12.

(10) Science: Grades 8-12.

(11) Secondary Biology (Grades 6-12).

(12) Secondary Chemistry (Grades 6-12).

(13) Secondary Science (Grades 6-12).

(14) Secondary Science, Composite (Grades 6-12).

(b) All teachers assigned to this course shall participate in Texas Education Agency (TEA)-approved training prior to teaching this course effective with the 2013-2014 school year. Teachers assigned to this course in the 2010-2011, 2011-2012, and/or 2012-2013 school years will have 12 months from the date the training is first offered to complete the TEA-approved training requirement.

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DIVISION 18. HUMAN SERVICES, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.461, 231.463, 231.465, 231.467, 231.469

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.461. Human Services, Grades 9-12.

(a) An assignment for Child Development, Child Guidance, Family and Community Services, Interpersonal Studies, or Principles of Human Services, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

(2) Family and Consumer Sciences, Composite: Grades 6-12.

(3) Human Development and Family Studies: Grades 8-12.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Human Services, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

(2) Family and Consumer Sciences, Composite: Grades 6-12.

(3) Human Development and Family Studies: Grades 8-12.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Human Services, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.463. Lifetime Nutrition and Wellness, Grades 9-12.

An assignment for Lifetime Nutrition and Wellness, Grades 9-12, is allowed with one of the following certificates.

(1) Any home economics or homemaking certificate.

(2) Family and Consumer Sciences, Composite: Grades 6-12.

(3) Health Science: Grades 6-12.

(4) Health Science Technology Education: Grades 8-12.

(5) Hospitality, Nutrition, and Food Sciences: Grades 8-12.

(6) Human Development and Family Studies: Grades 8-12.

(7) Vocational Health Occupations.

(8) Vocational Health Science Technology.

§231.465. Counseling and Mental Health, Grades 9-12.

An assignment for Counseling and Mental Health, Grades 9-12, is allowed with one of the following certificates.

- (1) Any home economics or homemaking certificate.
- (2) Family and Consumer Sciences, Composite: Grades 6-12.
- (3) Health Science: Grades 6-12.
- (4) Health Science Technology Education: Grades 8-12.
- (5) Human Development and Family Studies: Grades 8-12.
- (6) Vocational Health Occupations.
- (7) Vocational Health Science Technology.

§231.467. Dollars and Sense, Grades 9-12.

An assignment for Dollars and Sense, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Any home economics or homemaking certificate.
- (3) Any marketing or distributive education certificate.
- (4) Business and Finance: Grades 6-12.
- (5) Business Education: Grades 6-12.
- (6) Family and Consumer Sciences, Composite: Grades 6-12.
- (7) Human Development and Family Studies: Grades 8-12.
- (8) Marketing: Grades 6-12.
- (9) Marketing Education: Grades 8-12.

§231.469. Cosmetology, Grades 9-12.

An assignment for Introduction to Cosmetology, Cosmetology I, or Cosmetology II, Grades 9-12, is allowed with one of the following certificates plus a valid license as a cosmetology instructor issued by the Texas Department of Licensing and Regulation.

- (1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (3) Vocational Trades and Industry. This assignment requires appropriate work approval.

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DIVISION 19. INFORMATION TECHNOLOGY, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.481, 231.483, 231.485, 231.487, 231.489

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.481. Information Technology, Grades 9-12.

An assignment for Principles of Information Technology, Research in Information Technology Solutions, or Telecommunications and Networking, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Education: Grades 6-12.
- (7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (9) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.483. Digital and Interactive Media or Web Technologies, Grades 9-12.

An assignment for Digital and Interactive Media or Web Technologies, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Education: Grades 6-12.
- (7) Technology Applications: Early Childhood-Grade 12.
- (8) Technology Applications: Grades 7-12.
- (9) Technology Applications: Grades 8-12.
- (10) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (11) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (12) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.485. Computer Programming, Grades 9-12.

An assignment for Computer Programming or Advanced Computer Programming, Grades 9-12, is allowed using one of the following certificates.

- (1) Any business or office education certificate.
- (2) Business and Finance: Grades 6-12.
- (3) Business Education: Grades 6-12.
- (4) Computer Science: Grades 8-12.
- (5) Secondary Computer Information Systems (Grades 6-12).
- (6) Secondary Industrial Arts (Grades 6-12).
- (7) Secondary Industrial Technology (Grades 6-12).
- (8) Technology Education: Grades 6-12.
- (9) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (10) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (11) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.487. Computer Maintenance, Grades 9-12.

An assignment for Computer Maintenance, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Industrial Arts (Grades 6-12).
- (2) Secondary Industrial Technology (Grades 6-12).
- (3) Technology Education: Grades 6-12.
- (4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (6) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.489. Computer Technician, Grades 9-12.

An assignment for Computer Technician, Grades 9-12, is allowed with one of the following certificates.

- (1) Secondary Industrial Arts (Grades 6-12).
- (2) Secondary Industrial Technology (Grades 6-12).
- (3) Technology Education: Grades 6-12.
- (4) Technology Applications: Early Childhood-Grade 12.
- (5) Technology Applications: Grades 7-12.
- (6) Technology Applications: Grades 8-12.
- (7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (9) Vocational Trades and Industry. This assignment requires appropriate work approval.

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**DIVISION 20. LAW, PUBLIC SAFETY,
CORRECTIONS, AND SECURITY, GRADES
9-12 ASSIGNMENTS**

19 TAC §231.501, §231.503

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.501. Law, Public Safety, Corrections, and Security, Grades 9-12.

(a) An assignment for Correctional Services; Court Systems and Practices; Firefighter I and II; Law Enforcement I and II; Principles of Law, Public Safety, Corrections, and Security; or Security Services, Grades 9-12, is allowed with a valid license appropriate for the assignment plus one of the following certificates.

- (1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (3) Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Law, Public Safety, Corrections, and Security, Grades 9-12, is allowed with a current license appropriate for the assignment plus one of the following certificates.

- (1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (3) Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Law, Public Safety, Corrections, and Security, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.503. Forensic Science, Grades 9-12.

(a) Subject to the requirements in subsection (b) of this section, an assignment for Forensic Science, Grades 9-12, is allowed with one of the following certificates.

- (1) Chemistry: Grades 7-12.
- (2) Chemistry: Grades 8-12.
- (3) Health Science: Grades 6-12.
- (4) Health Science Technology Education: Grades 8-12.
- (5) Life Science: Grades 7-12.
- (6) Life Science: Grades 8-12.
- (7) Master Science Teacher (Grades 8-12).
- (8) Science: Grades 7-12.
- (9) Science: Grades 8-12.
- (10) Secondary Biology (Grades 6-12).
- (11) Secondary Chemistry (Grades 6-12).
- (12) Secondary Science (Grades 6-12).
- (13) Secondary Science, Composite (Grades 6-12).

(14) Trade and Industrial Education: Grades 6-12. This assignment requires a bachelor's degree and appropriate work approval.

(15) Trade and Industrial Education: Grades 8-12. This assignment requires a bachelor's degree and appropriate work approval.

(16) Vocational Health Occupations. This assignment requires a bachelor's degree.

(17) Vocational Health Science Technology. This assignment requires a bachelor's degree.

(18) Vocational Trades and Industry. This assignment requires a bachelor's degree and appropriate work approval.

(b) All teachers assigned to this course shall participate in Texas Education Agency (TEA)-approved training prior to teaching this course effective with the 2013-2014 school year. Teachers assigned to this course in the 2010-2011, 2011-2012, and/or 2012-2013 school years will have 12 months from the date the training is first offered to complete the TEA-approved training requirement.

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DIVISION 21. MANUFACTURING, GRADES 9-12 ASSIGNMENTS

19 TAC §231.521, §231.523

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.521. Manufacturing, Grades 9-12.

(a) An assignment for Principles of Manufacturing, Precision Metal Manufacturing, Advanced Precision Metal Manufacturing, Flexible Manufacturing, Advanced Flexible Manufacturing, or Manufacturing Engineering, Grades 9-12, is allowed using one of the following certificates.

- (1) Mathematics/Physical Science/Engineering: Grades 6-12.
- (2) Mathematics/Physical Science/Engineering: Grades 8-12.
- (3) Secondary Industrial Arts (Grades 6-12).
- (4) Secondary Industrial Technology (Grades 6-12).
- (5) Technology Education: Grades 6-12.
- (6) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (7) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (8) Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Manufacturing, Grades 9-12, is allowed with one of the following certificates.

- (1) Mathematics/Physical Science/Engineering: Grades 6-12.
- (2) Mathematics/Physical Science/Engineering: Grades 8-12.
- (3) Secondary Industrial Arts (Grades 6-12).
- (4) Secondary Industrial Technology (Grades 6-12).
- (5) Technology Education: Grades 6-12.
- (6) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (7) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (8) Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Manufacturing, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.523. Welding, Grades 9-12.

An assignment for Welding or Advanced Welding, Grades 9-12, is allowed with one of the following certificates.

- (1) Agriculture, Food, and Natural Resources: Grades 6-12.
- (2) Agricultural Science and Technology: Grades 6-12.
- (3) Any vocational agriculture certificate.
- (4) Secondary Industrial Arts (Grades 6-12).
- (5) Secondary Industrial Technology (Grades 6-12).
- (6) Technology Education: Grades 6-12.
- (7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.
- (8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.
- (9) Vocational Trades and Industry. This assignment requires appropriate work approval.

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DIVISION 22. MARKETING, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.541, 231.543, 231.545, 231.547, 231.549

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.541. Marketing, Grades 9-12.

(a) An assignment for Sports and Entertainment Marketing or Marketing Dynamics, Grades 9-12, is allowed with one of the following certificates.

- (1) Any marketing or distributive education certificate.
- (2) Marketing: Grades 6-12.
- (3) Marketing Education: Grades 8-12.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Marketing Dynamics, Grades 9-12, is allowed with one of the following certificates.

- (1) Any marketing or distributive education certificate.
- (2) Marketing: Grades 6-12.
- (3) Marketing Education: Grades 8-12.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Marketing Dynamics, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.543. Advertising and Sales Promotion, Grades 9-12.

An assignment for Advertising and Sales Promotion, Grades 9-12, is allowed with one of the following certificates.

- (1) Any marketing or distributive education certificate.
- (2) Marketing: Grades 6-12.
- (3) Marketing Education: Grades 8-12.

(4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(6) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.545. Fashion Marketing, Grades 9-12.

An assignment for Fashion Marketing, Grades 9-12, is allowed with one of the following certificates.

- (1) Any home economics or homemaking certificate.
- (2) Any marketing or distributive education certificate.
- (3) Family and Consumer Sciences, Composite: Grades

6-12.

(4) Marketing: Grades 6-12.

(5) Marketing Education: Grades 8-12.

§231.547. Entrepreneurship, Grades 9-12.

An assignment for Entrepreneurship, Grades 9-12, is allowed with any current vocational or career and technical education classroom teaching certificate specified in §233.13 of this title (relating to Career and Technical Education (Certificates not requiring experience and preparation in a skill area)) or §233.14 of this title (relating to Career and Technical Education (Certificates requiring experience and preparation in a skill area)).

§231.549. Retailing and E-tailing, Grades 9-12.

An assignment for Retailing and E-tailing, Grades 9-12, is allowed with one of the following certificates.

- (1) Any business or office education certificate.
- (2) Any home economics or homemaking certificate.
- (3) Any marketing or distributive education certificate.
- (4) Business and Finance: Grades 6-12.
- (5) Business Education: Grades 6-12.
- (6) Family and Consumer Sciences, Composite: Grades

6-12.

(7) Hospitality, Nutrition, and Food Sciences: Grades

8-12.

(8) Marketing: Grades 6-12.

(9) Marketing Education: Grades 8-12.

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DIVISION 23. SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS, GRADES 9-12 ASSIGNMENTS

**19 TAC §§231.561, 231.563, 231.565, 231.567, 231.569,
231.571, 231.573, 231.575, 231.577**

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.561. Concepts of Engineering and Technology, Grades 9-12.

An assignment for Concepts of Engineering and Technology, Grades 9-12, is allowed with one of the following certificates.

- 6-12.
 - (1) Agriculture, Food, and Natural Resources: Grades 6-12.
 - (2) Agricultural Science and Technology: Grades 6-12.
 - (3) Any vocational agriculture certificate.
 - (4) Health Science: Grades 6-12.
 - (5) Health Science Technology Education: Grades 8-12.
 - 6-12. (6) Mathematics/Physical Science/Engineering: Grades 6-12.
 - 8-12. (7) Mathematics/Physical Science/Engineering: Grades 8-12.
 - Grades 6-12. (8) Science, Technology, Engineering, and Mathematics: Grades 6-12.
 - (9) Secondary Industrial Arts (Grades 6-12).
 - (10) Secondary Industrial Technology (Grades 6-12).
 - (11) Technology Education: Grades 6-12.

(12) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(13) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(14) Vocational Health Occupations.

(15) Vocational Health Science Technology.

(16) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.563. Biotechnology, Grades 9-12.

An assignment for Biotechnology, Grades 9-12, is allowed with one of the following certificates.

- 6-12.
 - (1) Agriculture, Food, and Natural Resources: Grades 6-12.
 - (2) Agricultural Science and Technology: Grades 6-12.
 - (3) Any vocational agriculture certificate.
 - (4) Health Science: Grades 6-12.
 - (5) Health Science Technology Education: Grades 8-12.
 - 6-12. (6) Mathematics/Physical Science/Engineering: Grades 6-12.
 - 8-12. (7) Mathematics/Physical Science/Engineering: Grades 8-12.
 - Grades 6-12. (8) Science, Technology, Engineering, and Mathematics: Grades 6-12.
 - (9) Secondary Industrial Technology (Grades 6-12).
 - (10) Secondary Industrial Arts (Grades 6-12).
 - (11) Technology Education: Grades 6-12.
 - (12) Vocational Health Occupations.
 - (13) Vocational Health Science Technology.

§231.565. Advanced Biotechnology, Grades 9-12.

(a) Subject to the requirements in subsection (b) of this section, an assignment for Advanced Biotechnology, Grades 9-12, is allowed with one of the following certificates.

- 6-12.
 - (1) Agriculture, Food, and Natural Resources: Grades 6-12.
 - (2) Agricultural Science and Technology: Grades 6-12.
 - (3) Any vocational agriculture certificate.
 - (4) Health Science: Grades 6-12.
 - (5) Health Science Technology Education: Grades 8-12.
 - (6) Life Science: Grades 7-12.
 - (7) Life Science: Grades 8-12.
 - (8) Master Science Teacher (Grades 8-12).
 - (9) Science: Grades 7-12.
 - (10) Science: Grades 8-12.
 - Grades 6-12. (11) Science, Technology, Engineering, and Mathematics: Grades 6-12.
 - (12) Secondary Biology (Grades 6-12).
 - (13) Secondary Science (Grades 6-12).
 - (14) Secondary Science, Composite (Grades 6-12).

(15) Vocational Health Occupations. This assignment requires a bachelor's degree.

(16) Vocational Health Science Technology. This assignment requires a bachelor's degree.

(b) All teachers assigned to this course shall participate in Texas Education Agency (TEA)-approved training prior to teaching this course effective with the 2013-2014 school year. Teachers assigned to this course in the 2010-2011, 2011-2012, and/or 2012-2013 school years will have 12 months from the date the training is first offered to complete the TEA-approved training requirement.

§231.567. Engineering Design and Presentation, Grades 9-12.

(a) An assignment for Engineering Design and Presentation or Advanced Engineering Design and Presentation, Grades 9-12, is allowed with one of the following certificates.

(1) Mathematics/Physical Science/Engineering: Grades 6-12.

(2) Mathematics/Physical Science/Engineering: Grades 8-12.

(3) Science, Technology, Engineering, and Mathematics: Grades 6-12.

(4) Secondary Industrial Arts (Grades 6-12).

(5) Secondary Industrial Technology (Grades 6-12).

(6) Technology Education: Grades 6-12.

(7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(9) Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Science, Technology, Engineering, and Mathematics, Grades 9-12, is allowed with one of the following certificates.

(1) Mathematics/Physical Science/Engineering: Grades 6-12.

(2) Mathematics/Physical Science/Engineering: Grades 8-12.

(3) Science, Technology, Engineering, and Mathematics: Grades 6-12.

(4) Secondary Industrial Arts (Grades 6-12).

(5) Secondary Industrial Technology (Grades 6-12).

(6) Technology Education: Grades 6-12.

(7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(9) Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Science, Technology, Engineering, and Mathematics, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.569. Engineering Mathematics, Grades 9-12.

(a) Subject to the requirements in subsection (b) of this section, an assignment for Engineering Mathematics, Grades 9-12, is allowed with one of the following certificates.

(1) Master Mathematics Teacher (Grades 8-12).

(2) Mathematics: Grades 7-12.

(3) Mathematics: Grades 8-12.

(4) Mathematics/Physical Science/Engineering: Grades 6-12.

(5) Mathematics/Physical Science/Engineering: Grades 8-12.

(6) Physics/Mathematics: Grades 7-12.

(7) Physics/Mathematics: Grades 8-12.

(8) Science, Technology, Engineering, and Mathematics: Grades 6-12.

(9) Secondary Mathematics (Grades 6-12).

(10) Secondary Industrial Arts (Grades 6-12).

(11) Secondary Industrial Technology (Grades 6-12).

(12) Technology Education: Grades 6-12.

(b) All teachers assigned to this course shall participate in Texas Education Agency (TEA)-approved training prior to teaching this course effective with the 2013-2014 school year. Teachers assigned to this course in the 2010-2011, 2011-2012, and/or 2012-2013 school years will have 12 months from the date the training is first offered to complete the TEA-approved training requirement.

§231.571. Electronics or Robotics and Automation, Grades 9-12.

An assignment for Electronics, Advanced Electronics, or Robotics and Automation, Grades 9-12, is allowed with one of the following certificates.

(1) Mathematics/Physical Science/Engineering: Grades 6-12.

(2) Mathematics/Physical Science/Engineering: Grades 8-12.

(3) Science, Technology, Engineering, and Mathematics: Grades 6-12.

(4) Secondary Industrial Arts (Grades 6-12).

(5) Secondary Industrial Technology (Grades 6-12).

(6) Technology Education: Grades 6-12.

(7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(9) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.573. Principles of Technology, Grades 9-12.

(a) Subject to the requirements in subsection (c) of this section, an assignment for Principles of Technology, Grades 9-12, is allowed with one of the following certificates.

(1) Master Science Teacher (Grades 8-12).

(2) Mathematics/Physical Science/Engineering: Grades 6-12.

8-12. (3) Mathematics/Physical Science/Engineering: Grades

(4) Physical Science: Grades 6-12.

(5) Physical Science: Grades 8-12.

(6) Physics/Mathematics: Grades 7-12.

(7) Physics/Mathematics: Grades 8-12.

(8) Science: Grades 7-12.

(9) Science: Grades 8-12.

(10) Science, Technology, Engineering, and Mathematics:
Grades 6-12.

(11) Secondary Industrial Arts (Grades 6-12).

(12) Secondary Industrial Technology (Grades 6-12).

(13) Secondary Physics (Grades 6-12).

(14) Secondary Science, Composite (Grades 6-12).

(15) Technology Education: Grades 6-12.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Principles of Technology, Grades 9-12, may also be taught with a vocational agriculture certificate or a trades and industry certificate with verifiable physics applications experience in business and industry, if assigned prior to the 1998-1999 school year. Six semester credit hours of college physics, chemistry, or electricity/electronics may be substituted for the business and industry experience. The provisions of this subsection shall expire on July 1, 2015.

(c) All teachers assigned to Principles of Technology shall participate in Texas Education Agency-approved training and have eight semester credit hours in physics prior to teaching this course.

§231.575. Engineering Design and Problem Solving, Grades 9-12.

(a) Subject to the requirements in subsection (b) of this section, an assignment for Engineering Design and Problem Solving, Grades 9-12, is allowed with one of the following certificates.

(1) Master Science Teacher (Grades 8-12).

6-12. (2) Mathematics/Physical Science/Engineering: Grades

8-12. (3) Mathematics/Physical Science/Engineering: Grades

(4) Physical Science: Grades 6-12.

(5) Physical Science: Grades 8-12.

(6) Physics/Mathematics: Grades 7-12.

(7) Physics/Mathematics: Grades 8-12.

(8) Science: Grades 7-12.

(9) Science: Grades 8-12.

(10) Science, Technology, Engineering, and Mathematics:
Grades 6-12.

(11) Secondary Industrial Arts (Grades 6-12).

(12) Secondary Industrial Technology (Grades 6-12).

(13) Secondary Physics (Grades 6-12).

(14) Secondary Science (Grades 6-12).

(15) Secondary Science, Composite (Grades 6-12).

(16) Technology Education: Grades 6-12.

(b) All teachers assigned to this course shall participate in Texas Education Agency (TEA)-approved training prior to teaching this course effective with the 2013-2014 school year. Teachers assigned to this course in the 2010-2011, 2011-2012, and/or 2012-2013 school years will have 12 months from the date the training is first offered to complete the TEA-approved training requirement.

§231.577. Scientific Research and Design, Grades 9-12.

An assignment for Scientific Research and Design, Grades 9-12, is allowed with one of the following certificates.

(1) Any vocational or career and technical education classroom teaching certificate with a bachelor's degree and 18 semester credit hours in any combination of sciences.

(2) Any science certificate valid for the grade level of the assignment.

(3) Master Science Teacher (Grades 8-12).

(4) Science, Technology, Engineering, and Mathematics:
Grades 6-12.

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DIVISION 24. TRANSPORTATION, DISTRIBUTION, AND LOGISTICS, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.591, 231.593, 231.595

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.591. Transportation, Distribution, and Logistics, Grades 9-12.

(a) An assignment for Energy, Power, and Transportation Systems; Logistics, Planning, and Management Systems; Principles of Transportation, Distribution, and Logistics; or Transportation Systems Management, Grades 9-12, is allowed with one of the following certificates.

(1) Secondary Industrial Arts (Grades 6-12).

(2) Secondary Industrial Technology (Grades 6-12).

(3) Technology Education: Grades 6-12.

(4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(6) Vocational Trades and Industry. This assignment requires appropriate work approval.

(b) Subject to the requirements in subsection (c) of this section, an assignment for Practicum in Transportation, Distribution, and Logistics, Grades 9-12, is allowed with one of the following certificates.

(1) Secondary Industrial Arts (Grades 6-12).

(2) Secondary Industrial Technology (Grades 6-12).

(3) Technology Education: Grades 6-12.

(4) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(5) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(6) Vocational Trades and Industry. This assignment requires appropriate work approval.

(c) The school district is responsible for ensuring that each teacher assigned to Practicum in Transportation, Distribution, and Logistics, Grades 9-12, has completed appropriate training in state and federal requirements regarding work-based learning and safety.

§231.593. Aircraft Technology, Automotive Technology, or Collision Repair and Refinishing, Grades 9-12.

An assignment for Aircraft Technology; Advanced Aircraft Technology; Automotive Technology; Advanced Automotive Technology; Collision Repair and Refinishing; or Advanced Collision Repair and Refinishing, Grades 9-12, is allowed with one of the following certificates.

(1) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(2) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(3) Vocational Trades and Industry. This assignment requires appropriate work approval.

§231.595. Small Engine Technology, Grades 9-12.

An assignment for Small Engine Technology or Advanced Small Engine Technology, Grades 9-12, is allowed with one of the following certificates.

(1) Agriculture, Food, and Natural Resources: Grades 6-12.

(2) Agricultural Science and Technology: Grades 6-12.

(3) Any vocational agriculture certificate.

(4) Secondary Industrial Arts (Grades 6-12).

(5) Secondary Industrial Technology (Grades 6-12).

(6) Technology Education: Grades 6-12.

(7) Trade and Industrial Education: Grades 6-12. This assignment requires appropriate work approval.

(8) Trade and Industrial Education: Grades 8-12. This assignment requires appropriate work approval.

(9) Vocational Trades and Industry. This assignment requires appropriate work approval.

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SUBCHAPTER F. SPECIAL EDUCATION-RELATED SERVICES PERSONNEL ASSIGNMENTS

19 TAC §§231.611, 231.613, 231.615, 231.617, 231.619, 231.621, 231.623

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.611. Special Education Teacher.

(a) Subject to the requirements in subsection (c) of this section, an assignment for Special Education Teacher is allowed with one of the following certificates.

(1) Blind School (Texas State School for the Blind and Visually Impaired only).

(2) Deaf and Severely Hard of Hearing.

(3) Deaf School (Texas State School for the Deaf only).

(4) Deaf-Blind.

(5) Deficient Vision.

(6) Early Childhood Education for Handicapped Children (Infants-Grade 6 only).

(7) Elementary Generic Special Education.

(8) Emotionally Disturbed.

(9) Generic Special Education.

(10) Hearing Impaired.

(11) High School--Generic Special Education.

- (12) Language and/or Learning Disabilities.
- (13) Mentally Retarded.
- (14) Physically Handicapped.
- (15) School Speech-Language Pathologist.
- (16) Secondary Generic Special Education (Grades 6-12) (Grades 6-12 only).
- (17) Severely and Profoundly Handicapped.
- (18) Severely Emotionally Disturbed and Autistic.
- (19) Special Education Supplemental (Valid at grade level and subject area of the base certificate).
- (20) Special Education: Early Childhood-Grade 12.
- (21) Speech and Hearing Therapy.
- (22) Speech and Language Therapy.
- (23) Teacher of Students with Visual Impairments Supplemental: Early Childhood-Grade 12.
- (24) Teacher of the Deaf and Hard of Hearing: Early Childhood-Grade 12.
- (25) Visually Handicapped.

(b) The certificates specified in subsection (a) of this section are appropriate for a special education assignment in Prekindergarten-Grade 12 except where otherwise noted.

(c) The employing school district should make every effort to secure educators trained in the specialized skills and knowledge needed to serve the special needs of the children. If a staff member does not have the skills and knowledge needed for the assignment, the school district is responsible for making provisions for the person to acquire the necessary skills and knowledge.

§231.613. *Teacher of Adaptive Physical Education.*

(a) An assignment for Teacher of Adaptive Physical Education is allowed with one of the following certificates.

- (1) All-Level Health and Physical Education.
- (2) All-Level Physical Education.
- (3) Elementary Physical Education (Grades 1-8) (Grades 1-8 only).
- (4) Grades 6-8--Physical Education (Grades 6-8 only).
- (5) Physical Education: Early Childhood-Grade 12.
- (6) Secondary Physical Education (Grades 6-12) (Grades 6-12 only).

(7) Special education certificate as specified in §231.611 of this title (relating to Special Education Teacher). This assignment requires necessary skills and knowledge in adaptive physical education. Evidence of necessary skills and knowledge in adaptive physical education must be documented through in-service records, seminar attendance records, or transcripts of college courses.

(b) Other licensed professionals may be eligible to provide adaptive physical education services to students with disabilities under the scope of practice of the specific license held.

§231.615. *Full-Time Teacher of Orthopedically Impaired or Other Health Impaired in a Hospital Class or Home-Based Instruction.*

An assignment for Full-Time Teacher of Orthopedically Impaired or Other Health Impaired in a Hospital Class or Home-Based Instruction is allowed with one of the following certificates.

(1) Special education certificate as specified in §231.611 of this title (relating to Special Education Teacher).

(2) Teacher certificate. This assignment requires a three semester credit hour survey course in special education and three semester credit hour course related to teaching students who are physically impaired or health impaired.

§231.617. *Teacher of Students with Visual Impairments.*

(a) An assignment for Teacher of Students with Visual Impairments is allowed with one of the following certificates.

- (1) Deficient Vision.
- (2) Visually Handicapped.
- (3) Teacher of Students with Visual Impairments Supplemental: Early Childhood-Grade 12.

(b) A teacher in an assignment for Teacher of Students with Visual Impairment must be available to students with visual impairments.

§231.619. *Teacher of Students with Auditory Impairments.*

(a) Effective July 1, 2015, all teachers who hold the Deaf and Severely Hard of Hearing, Hearing Impaired, or Teacher of the Deaf and Hard of Hearing: Early Childhood-Grade 12 certificates must have passed the Texas Assessment of Sign Communication (TASC) or the Texas Assessment of Sign Communication-American Sign Language (TASC-ASL) before they may be assigned to teach in a classroom in which sign communication is the predominate communication method used.

(b) An assignment for Teacher of Students with Auditory Impairments is allowed with one of the following certificates.

- (1) Deaf and Severely Hard of Hearing.
- (2) Hearing Impaired.
- (3) Teacher of the Deaf and Hard of Hearing: Early Childhood-Grade 12.

(c) A teacher in an assignment for Teacher of Students with Auditory Impairments must be available to students with auditory impairments.

(d) A teacher in an assignment for Teacher of Students with Auditory Impairments is not required to pass the TASC or the TASC-ASL in order to be assigned to a classroom in which another communication method is used predominately. If this teacher completes certification requirements through a State Board for Educator Certification-approved educator preparation program in Texas, the program must have assessed proficiency in the communication method and verified it to be at an appropriate level.

§231.621. *Teacher of Gifted and Talented Students.*

(a) An assignment for Teacher of Gifted and Talented Students is allowed with one of the following.

- (1) A teacher certificate that matches the subject and grade level of the assignment.
- (2) Gifted and Talented Endorsement (Not required for assignment).
- (3) Gifted and Talented Supplemental (Not required for assignment).

(b) In addition to the requirements specified in this subchapter, individuals assigned to a gifted and talented program must comply with the provisions of Chapter 89, Subchapter A, of this title (relating to Gifted/Talented Education).

§231.623. Special Education Counseling Services; Educational Diagnostician; Speech Therapy Services; and Vocational Adjustment Coordinator.

(a) Special Education Counseling Services.

(1) An assignment for Special Education Counseling Services is allowed with one of the following certificates.

- (A) Counselor.
- (B) School Counselor (Early Childhood-Grade 12).
- (C) Special Education Counselor.
- (D) Special Education Visiting Teacher.

(2) Individuals certified or licensed to practice in other professions may be eligible to provide counseling services for students with disabilities under the scope of practice of the specific license held.

(b) Educational Diagnostician.

(1) An assignment for Educational Diagnostician is allowed with an Educational Diagnostician certificate.

(2) Individuals certified or licensed to practice in other professions may be eligible to provide evaluative services for students with disabilities under the scope of practice of the specific license held.

(c) Speech Therapy Services.

(1) An assignment for Speech Therapy Services is allowed with one of the following certificates.

- (A) School Speech-Language Pathologist.
- (B) Speech and Hearing Therapy.
- (C) Speech and Language Therapy.

(2) Effective September 1, 2013, individuals who hold a Speech and Hearing Therapy or a Speech and Language Therapy certificate must have a master's degree.

(3) Individuals licensed by the State Board of Examiners for Speech Language Pathology and Audiology also may provide speech therapy services to eligible students under the scope of practice of the specific license held.

(d) Vocational Adjustment Coordinator.

(1) An assignment for Vocational Adjustment Coordinator is allowed with a Special Education certificate. This assignment requires 60 clock-hours of training appropriate for the assignment.

(2) A teacher in an assignment for Vocational Adjustment Coordinator will have three years from the date of assignment to complete the required training.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Cristina De La Fuente-Valadez

Director, Rulemaking, Texas Education Agency

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For further information, please call: (512) 475-1497

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SUBCHAPTER G. PARAPROFESSIONAL PERSONNEL, ADMINISTRATORS, AND OTHER INSTRUCTIONAL AND PROFESSIONAL SUPPORT ASSIGNMENTS

19 TAC §231.641, §231.643

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.641. Educational Aide.

(a) Educational Aide I.

(1) An assignment for Educational Aide I is allowed with one of the following certificates.

- (A) Educational Aide I.
- (B) Educational Aide II.
- (C) Educational Aide III.
- (D) Valid Texas Classroom Teacher Certificate.

(2) The role description for an Educational Aide I is codified in §230.61(1) of this title (relating to Role Descriptions).

(b) Educational Aide II.

(1) An assignment for Educational Aide II is allowed with one of the following certificates.

- (A) Educational Aide II.
- (B) Educational Aide III.
- (C) Valid Texas Classroom Teacher Certificate.

(2) The role description for an Educational Aide II is codified in §230.61(2) of this title.

(c) Educational Aide III.

(1) An assignment for Educational Aide III is allowed with one of the following certificates.

- (A) Educational Aide III.
- (B) Valid Texas Classroom Teacher Certificate.

(2) The role description of an Educational Aide III is codified in §230.61(3) of this title.

§231.643. Administrators and Other Instructional and Professional Support Personnel.

(a) Administrators.

(1) An assignment for Superintendent is allowed with one of the following certificates.

- (A) Administrator.
- (B) Superintendent.

(2) An assignment for Principal is allowed with one of the following certificates.

- (A) Administrator.
- (B) Mid-Management Administrator.
- (C) Principal.
- (D) Superintendent.

(3) An assignment for Assistant Principal is allowed with one of the following certificates.

- (A) Administrator.
- (B) Assistant Principal.
- (C) Mid-Management Administrator.
- (D) Principal.
- (E) Superintendent.

(b) School Counselor. An assignment for School Counselor is allowed with one of the following certificates.

- (1) Counselor.
- (2) School Counselor (Early Childhood-Grade 12).

(c) Librarian. An assignment for Librarian is allowed with one of the following certificates.

- (1) Learning Resources Endorsement.
- (2) Learning Resources Specialist.
- (3) Librarian.
- (4) School Librarian (Early Childhood-Grade 12).

(d) Athletic Director. An assignment for Athletic Director is allowed with a teacher certificate.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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SUBCHAPTER H. ASSIGNMENTS FOR TEACHERS CERTIFIED BEFORE 1966 DIVISION 1. DEPARTMENTALIZED CLASSROOMS, GRADES 6-8 ASSIGNMENTS

19 TAC §§231.661, 231.663, 231.665

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires

the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.661. General.

If no provisions are listed in §231.663 of this title (relating to Minimum Requirements for Certificates Dated Prior to September 1, 1962, Grades 6-8) or §231.665 of this title (relating to Minimum Requirements for Certificates Dated After September 1, 1962, and Prior to September 1, 1966, Grades 6-8), assignments must meet requirements in Subchapters A-E of this chapter. The provisions of this section will expire on July 1, 2015.

§231.663. Minimum Requirements for Certificates Dated Prior to September 1, 1962, Grades 6-8.

(a) English Language Arts.

(1) An assignment in a departmentalized classroom for English Language Arts, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Reading, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires specific preparation in the teaching of reading such as in-service, seminar, or college course in reading. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for Reading Improvement, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires specific preparation in the teaching of reading such as in-service, seminar, or college course in reading. The provisions of this paragraph shall expire on July 1, 2015.

(4) An assignment in a departmentalized classroom for Speech, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(b) Other Languages. An assignment in a departmentalized classroom for Other Languages, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credits hours in the language of the assignment. The provisions of this subsection shall expire on July 1, 2015.

(c) Social Studies. An assignment in a departmentalized classroom for Social Studies, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in social studies. The provisions of this subsection shall expire on July 1, 2015.

(d) Mathematics. An assignment in a departmentalized classroom for Mathematics, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in mathematics. The provisions of this subsection shall expire on July 1, 2015.

(e) Science.

(1) An assignment in a departmentalized classroom for Life Science, Grades 6-8, is allowed with a certificate dated prior to

September 1, 1962. This assignment requires 12 semester credit hours in science. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Earth Science, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in science. The provisions of this paragraph shall expire on July 1, 2015.

(f) Fine Arts.

(1) An assignment in a departmentalized classroom for Art, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in art. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Theatre Arts, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in theatre arts. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for Music, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in music. The provisions of this paragraph shall expire on July 1, 2015.

(g) Health. An assignment in a departmentalized classroom for Health, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in health. The provisions of this subsection shall expire on July 1, 2015.

(h) Physical Education. An assignment in a departmentalized classroom for Physical Education, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in physical education. The provisions of this subsection shall expire on July 1, 2015.

(i) Technology Applications. An assignment in a departmentalized classroom for Technology Applications, Grades 6-8, is allowed with a certificate dated prior to September 1, 1962. This assignment requires a school district to ensure that teachers have the appropriate technology applications knowledge and skills, as defined in the State Board for Educator Certification-approved Educator Standards for Technology Applications to teach the course(s) to which they are assigned. The provisions of this subsection shall expire on July 1, 2015.

§231.665. Minimum Requirements for Certificates Dated After September 1, 1962, and Prior to September 1, 1966, Grades 6-8.

(a) English Language Arts.

(1) An assignment in a departmentalized classroom for English Language Arts, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 18 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Reading, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires specific preparation in the teaching of reading such as in-service, seminar, or college course in reading. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for Reading Improvement, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires specific preparation in the teaching of reading such as

in-service, seminar, or college course in reading. The provisions of this paragraph shall expire on July 1, 2015.

(4) An assignment in a departmentalized classroom for Speech, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 12 semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(b) Other Languages. An assignment in a departmentalized classroom for Other Languages, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 18 semester credit hours in the language of the assignment. The provisions of this subsection shall expire on July 1, 2015.

(c) Social Studies. An assignment in a departmentalized classroom for Social Studies, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 18 semester credit hours in social studies, including 12 semester credit hours related to the assignment. The provisions of this subsection shall expire on July 1, 2015.

(d) Mathematics. An assignment in a departmentalized classroom for Mathematics, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 18 semester credit hours in mathematics. The provisions of this subsection shall expire on July 1, 2015.

(e) Science.

(1) An assignment in a departmentalized classroom for Life Science, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 18 semester credit hours in science (any combination of sciences). The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Earth Science, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 18 semester credit hours in science (any combination of sciences). The provisions of this paragraph shall expire on July 1, 2015.

(f) Fine Arts.

(1) An assignment in a departmentalized classroom for Art, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 18 semester credit hours in art. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Theatre Arts, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 18 semester credit hours in theatre arts. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for Music, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 18 semester credit hours in music. The provisions of this paragraph shall expire on July 1, 2015.

(g) Health. An assignment in a departmentalized classroom for Health, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 12 semester credit hours in health, biology, foods, nutrition, or physiology. The provisions of this subsection shall expire on July 1, 2015.

(h) Physical Education. An assignment in a departmentalized classroom for Physical Education, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 12 semester credit hours in physical education. The provisions of this subsection shall expire on July 1, 2015.

(i) Technology Applications. An assignment in a departmentalized classroom for Technology Applications, Grades 6-8, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires a school district to ensure that teachers have the appropriate technology applications knowledge and skills, as defined in the State Board for Educator Certification-approved Educator Standards for Technology Applications to teach the course(s) to which they are assigned. The provisions of this subsection shall expire on July 1, 2015.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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DIVISION 2. DEPARTMENTALIZED CLASSROOMS, GRADES 9-12 ASSIGNMENTS

19 TAC §§231.671, 231.673, 231.675

The new sections are proposed under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

The proposed new sections implement the TEC, §21.031(a) and §21.041(b)(1) and (2).

§231.671. General.

If no provisions are listed in §231.673 of this title (relating to Minimum Requirements for Certificates Dated Prior to September 1, 1962, Grades 9-12) or §231.675 of this title (relating to Minimum Requirements for Certificates Dated After September 1, 1962, and Prior to September 1, 1966, Grades 9-12), assignments must meet requirements in Subchapters A-E of this chapter. The provisions of this section will expire on July 1, 2015.

§231.673. Minimum Requirements for Certificates Dated Prior to September 1, 1962, Grades 9-12.

(a) English Language Arts.

(1) An assignment in a departmentalized classroom for Analysis of Visual Media, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18

semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Correlated Language Arts, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for Creative/Imaginative Writing, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(4) An assignment in a departmentalized classroom for English I-IV, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(5) An assignment in a departmentalized classroom for Humanities, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(6) An assignment in a departmentalized classroom for Independent Study in English, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(7) An assignment in a departmentalized classroom for Literary Genres, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(8) An assignment in a departmentalized classroom for Practical Writing Skills, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(9) An assignment in a departmentalized classroom for Research/Technical Writing, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(10) An assignment in a departmentalized classroom for World Literature, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(11) An assignment in a departmentalized classroom for Reading Improvement, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires specific preparation in teaching of reading such as in-service, seminar, or college course in reading. The provisions of this paragraph shall expire on July 1, 2015.

(12) An assignment in a departmentalized classroom for Advanced Reading, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires specific preparation in teaching of reading such as in-service, seminar, or college course in reading. The provisions of this paragraph shall expire on July 1, 2015.

(b) Speech.

(1) An assignment in a departmentalized classroom for Introduction to Speech Communication, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English, including 6 semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Oral Interpretation I-III, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English, including 6 semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for Introduction to Radio and Television, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English, including 6 semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(4) An assignment in a departmentalized classroom for Debate I-III, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English, including 6 semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(5) An assignment in a departmentalized classroom for Public Speaking I-III, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English, including 6 semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(6) An assignment in a departmentalized classroom for Independent Study in Speech, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English, including 6 semester credit hours in speech. The provisions of this paragraph shall expire on July 1, 2015.

(c) Journalism. An assignment in a departmentalized classroom for Journalism, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English, including 6 semester credit hours in journalism. The provisions of this subsection shall expire on July 1, 2015.

(d) Other Languages. An assignment in a departmentalized classroom for Other Languages, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in the language of the assignment. The provisions of this subsection shall expire on July 1, 2015.

(e) Social Studies.

(1) An assignment in a departmentalized classroom for Advanced Social Science Problems, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in social studies. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Advanced Texas Studies, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in social studies. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for American Culture Studies, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in social studies. The provisions of this paragraph shall expire on July 1, 2015.

(4) An assignment in a departmentalized classroom for Psychology, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in social studies. The provisions of this paragraph shall expire on July 1, 2015.

(5) An assignment in a departmentalized classroom for Sociology, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in social studies. The provisions of this paragraph shall expire on July 1, 2015.

(6) An assignment in a departmentalized classroom for United States Government, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in social studies. The provisions of this paragraph shall expire on July 1, 2015.

(7) An assignment in a departmentalized classroom for United States History, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in social studies. The provisions of this paragraph shall expire on July 1, 2015.

(8) An assignment in a departmentalized classroom for World Area Studies, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in social studies. The provisions of this paragraph shall expire on July 1, 2015.

(9) An assignment in a departmentalized classroom for World Geography Studies, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in social studies. The provisions of this paragraph shall expire on July 1, 2015.

(10) An assignment in a departmentalized classroom for World History Studies, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in social studies. The provisions of this paragraph shall expire on July 1, 2015.

(f) Mathematics. An assignment in a departmentalized classroom for Mathematics, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in mathematics. The provisions of this subsection shall expire on July 1, 2015.

(g) Science.

(1) An assignment in a departmentalized classroom for Biology I and II, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in science with at least one course in biology. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Chemistry I and II, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in science with at least one course in chemistry. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for Physics I and II, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in science with at least one course in physics. The provisions of this paragraph shall expire on July 1, 2015.

(4) An assignment in a departmentalized classroom for Astronomy, Grades 9-12, is allowed with a certificate dated prior to

September 1, 1962. This assignment requires 12 semester credit hours in science with at least one course in astronomy. The provisions of this paragraph shall expire on July 1, 2015.

(5) An assignment in a departmentalized classroom for Environmental Science, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in science with at least one course in environmental science and/or ecology. The provisions of this paragraph shall expire on July 1, 2015.

(h) Health. An assignment in a departmentalized classroom for Health, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in health or related subjects such as nutrition, anatomy, physiology, kinesiology, other life sciences related to human health, social sciences related to mental or social health, home and family living, and first aid. The provisions of this subsection shall expire on July 1, 2015.

(i) Physical Education. An assignment in a departmentalized classroom for Physical Education, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in physical education. The provisions of this subsection shall expire on July 1, 2015.

(j) Fine Arts.

(1) An assignment in a departmentalized classroom for Art, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in art. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Theatre, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 18 semester credit hours in English, including 6 semester credit hours in theatre arts. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for all Music courses except Applied Music, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in music. The provisions of this paragraph shall expire on July 1, 2015.

(k) Industrial Technology. An assignment in a departmentalized classroom for Industrial Technology, Grades 9-12, is allowed with a certificate dated prior to September 1, 1962. This assignment requires 12 semester credit hours in industrial arts. The provisions of this subsection shall expire on July 1, 2015.

§231.675. Minimum Requirements for Certificates Dated After September 1, 1962, and Prior to September 1, 1966, Grades 9-12.

(a) English Language Arts.

(1) An assignment in a departmentalized classroom for Analysis of Visual Media, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Correlated Language Arts, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for Creative/Imaginative Writing, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966.

This assignment requires 24 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(4) An assignment in a departmentalized classroom for English I-IV, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(5) An assignment in a departmentalized classroom for Humanities, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(6) An assignment in a departmentalized classroom for Independent Study in English, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(7) An assignment in a departmentalized classroom for Literary Genres, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(8) An assignment in a departmentalized classroom for Practical Writing Skills, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(9) An assignment in a departmentalized classroom for Research/Technical Writing, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(10) An assignment in a departmentalized classroom for World Literature, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in English. The provisions of this paragraph shall expire on July 1, 2015.

(11) An assignment in a departmentalized classroom for Reading Improvement, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires specific preparation in teaching of reading such as in-service, seminar, or college course in reading. The provisions of this paragraph shall expire on July 1, 2015.

(12) An assignment in a departmentalized classroom for Advanced Reading, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires specific preparation in teaching of reading such as in-service, seminar, or college course in reading. The provisions of this paragraph shall expire on July 1, 2015.

(b) Speech.

(1) An assignment in a departmentalized classroom for Introduction to Speech Communication, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 12 semester credit hours in speech if teaching only one or two classes or 24 semester credit hours in speech if teaching three or more classes. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Oral Interpretation I-III, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 12 semester credit hours in speech if teaching only one or two classes or 24 semester credit hours in speech if teaching three or more classes. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for Introduction to Radio and Television, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 12 semester credit hours in speech if teaching only one or two classes or 24 semester credit hours in speech if teaching three or more classes. The provisions of this paragraph shall expire on July 1, 2015.

(4) An assignment in a departmentalized classroom for Debate I-III, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 12 semester credit hours in speech if teaching only one or two classes or 24 semester credit hours in speech if teaching three or more classes. The provisions of this paragraph shall expire on July 1, 2015.

(5) An assignment in a departmentalized classroom for Public Speaking I-III, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 12 semester credit hours in speech if teaching only one or two classes or 24 semester credit hours in speech if teaching three or more classes. The provisions of this paragraph shall expire on July 1, 2015.

(6) An assignment in a departmentalized classroom for Independent Study in Speech, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 12 semester credit hours in speech if teaching only one or two classes or 24 semester credit hours in speech if teaching three or more classes. The provisions of this paragraph shall expire on July 1, 2015.

(c) Journalism. An assignment in a departmentalized classroom for Journalism, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 12 semester credit hours in journalism if teaching only one or two classes or 24 semester credit hours in journalism if teaching three or more classes. The provisions of this subsection shall expire on July 1, 2015.

(d) Other Languages. An assignment in a departmentalized classroom for Other Languages, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in the language of assignment. The provisions of this subsection shall expire on July 1, 2015.

(e) Social Studies.

(1) An assignment in a departmentalized classroom for Advanced Social Science Problems, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in social studies, including 12 semester credit hours related to the assignment. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Advanced Texas Studies, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in social studies, including 12 semester credit hours related to the assignment. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for American Culture Studies, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in social studies, including 12 semester credit hours related to the assignment. The provisions of this paragraph shall expire on July 1, 2015.

(4) An assignment in a departmentalized classroom for Psychology, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in social studies, including 12 semester credit hours related to the assignment. The provisions of this paragraph shall expire on July 1, 2015.

(5) An assignment in a departmentalized classroom for Sociology, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in social studies, including 12 semester credit hours related to the assignment. The provisions of this paragraph shall expire on July 1, 2015.

(6) An assignment in a departmentalized classroom for United States Government, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in social studies, including 12 semester credit hours related to the assignment. The provisions of this paragraph shall expire on July 1, 2015.

(7) An assignment in a departmentalized classroom for United States History, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in social studies, including 12 semester credit hours related to the assignment. The provisions of this paragraph shall expire on July 1, 2015.

(8) An assignment in a departmentalized classroom for World Area Studies, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in social studies, including 12 semester credit hours related to the assignment. The provisions of this paragraph shall expire on July 1, 2015.

(9) An assignment in a departmentalized classroom for World Geography Studies, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in social studies, including 12 semester credit hours related to the assignment. The provisions of this paragraph shall expire on July 1, 2015.

(10) An assignment in a departmentalized classroom for World History Studies, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in social studies, including 12 semester credit hours related to the assignment. The provisions of this paragraph shall expire on July 1, 2015.

(f) Mathematics. An assignment in a departmentalized classroom for Mathematics, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in mathematics. The provisions of this subsection shall expire on July 1, 2015.

(g) Science.

(1) An assignment in a departmentalized classroom for Biology I and II, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in biology. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Chemistry I and II, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in chemistry. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for Physics I and II, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in physics. The provisions of this paragraph shall expire on July 1, 2015.

(4) An assignment in a departmentalized classroom for Astronomy, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in science with at least 12 semester credit hours in astronomy. The provisions of this paragraph shall expire on July 1, 2015.

(5) An assignment in a departmentalized classroom for Environmental Science, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in science, including at least 12 semester credit hours in environmental science and/or ecology. The provisions of this paragraph shall expire on July 1, 2015.

(h) Health. An assignment in a departmentalized classroom for Health, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 18 semester credit hours in health or related subjects such as nutrition, anatomy, physiology, kinesiology, other life sciences related to human health, social sciences related to mental or social health, home and family living, and first aid. The provisions of this subsection shall expire on July 1, 2015.

(i) Physical Education. An assignment in a departmentalized classroom for Physical Education, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in physical education. The provisions of this subsection shall expire on July 1, 2015.

(j) Fine Arts.

(1) An assignment in a departmentalized classroom for Art, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in art. The provisions of this paragraph shall expire on July 1, 2015.

(2) An assignment in a departmentalized classroom for Theatre, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 12 semester credit hours in theatre arts if teaching only one or two classes or 24 semester credit hours in theatre arts if teaching three or more classes. The provisions of this paragraph shall expire on July 1, 2015.

(3) An assignment in a departmentalized classroom for all Music courses except Applied Music, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in music. The provisions of this paragraph shall expire on July 1, 2015.

(k) Industrial Technology. An assignment in a departmentalized classroom for Industrial Technology, Grades 9-12, is allowed with a certificate dated after September 1, 1962, and prior to September 1, 1966. This assignment requires 24 semester credit hours in industrial arts. The provisions of this subsection shall expire on July 1, 2015.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300850

Cristina De La Fuente-Valadez

Director, Rulemaking, Texas Education Agency

State Board for Educator Certification

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 475-1497



TITLE 22. EXAMINING BOARDS

PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

CHAPTER 153. RULES RELATING TO PROVISIONS OF THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT

22 TAC §153.21

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to §153.21, concerning Appraiser Trainees and Sponsors. The amendments are proposed to require disclosure by sponsors of any disciplinary action taken against them in the past three years and to bring the rules into compliance with the *Real Property Appraiser Qualification Criteria (Criteria)* set out by The Appraiser Qualifications Board of the Appraisal Foundation. The *Criteria* states that Supervisory Appraisers shall be in "good standing" for a period of at least three years.

Kerri T. Galvin, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the sections. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Galvin also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be compliance with federal requirements for Supervisory Appraisers.

Comments on the proposal may be submitted to Kerri T. Galvin, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or to general.counsel@talcb.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1103.151, which authorizes TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are con-

sistent with the qualifications established by the Appraiser Qualification Board.

The statute affected by this amendment is Texas Occupations Code, Chapter 1103. No other statute, code or article is affected by the proposed amendments.

§153.21. Appraiser Trainees and Sponsors.

(a) - (j) (No change.)

(k) Certified appraisers who sponsor appraiser trainees or serve as an authorized supervisor must be in good standing and not subject to any disciplinary action within the last three ~~[two]~~ years that affected ~~[affects]~~ the sponsor's or supervisor's legal eligibility to engage in appraisal practice. Disciplinary action taken against the sponsor or supervisor within the last three years that did not affect the sponsor's or supervisor's legal eligibility to engage in appraisal practice must be disclosed to the trainee prior to sponsorship.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 22, 2013.

TRD-201300801

Kerri T. Galvin

General Counsel

Texas Appraiser Licensing and Certification Board

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 936-3576



22 TAC §153.24

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to §153.24, concerning Complaint Processing. The amendments are proposed to clarify that receipt of a complaint intake form by TALCB does not constitute the filing of a formal complaint against the individual named on the complaint intake form, to clarify all of the information that a respondent must provide to TALCB following notification of receipt of a complaint intake form, to establish a timeframe for completion of a preliminary review to determine if a violation occurred, to set out the criteria and procedure for filing of a formal complaint by TALCB, to more clearly set out levels of discipline and the mitigating and aggravating factors to be considered when assessing sanctions and to more clearly define penalty parameters at each level.

Kerri T. Galvin, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the section. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the section. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Galvin also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the sections will be greater clarity and transparency about complaint processing and sanctions at TALCB.

Comments on the proposal may be submitted to Kerri T. Galvin, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or to general.counsel@talcb.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1103.151, which authorizes TALCB to adopt rules relating to certificates and licenses, and §1103.154, which authorizes TALCB to adopt rules relating to the professional conduct of a licensed or certified appraiser.

The statute affected by this amendment is Texas Occupations Code, Chapter 1103. No other statute, code or article is affected by the proposed amendments.

§153.24. Complaint Processing.

(a) Receipt of a Complaint Intake Form by the board does not constitute the filing of a formal complaint by the board against the individual named on the Complaint Intake Form. [A complaint must be in writing and must be signed by the complainant. Board staff may initiate a complaint.]

~~[(1)]~~ Upon receipt of a signed Complaint Intake Form ~~[complaint]~~, staff shall:

(1) ~~[(A)]~~ assign the complaint a case number in the complaint tracking system; and

(2) ~~[(B)]~~ send written acknowledgement of receipt to the complainant.

(b) ~~[(2)]~~ If the staff determines at any time that the complaint is not within the Board's jurisdiction or that no violation exists, the complaint shall ~~[then]~~ be dismissed with no further processing. The Board or the commissioner may delegate to ~~[Board]~~ staff the duty to dismiss complaints.

(c) ~~[(3)]~~ A complaint alleging mortgage fraud or in which mortgage fraud is suspected:

(1) ~~[(A)]~~ may be investigated covertly; and

(2) ~~[(B)]~~ shall be referred to the appropriate prosecutorial authorities.

(d) ~~[(4)]~~ Staff may request additional information necessary to determine how to proceed with the complaint from any person.

(e) ~~[(5)]~~ As part of a preliminary review, a ~~[A]~~ copy of the Complaint Intake Form ~~[complaint]~~ and all supporting documentation shall be sent to the respondent unless the complaint qualifies for covert investigation and the Standards and Enforcement Services Division deems covert investigation appropriate.

(f) ~~[(6)]~~ The respondent shall submit a response within 20 days of receiving a copy of the Complaint Intake Form ~~[complaint]~~. The 20-day period may be extended for good cause upon request in writing or by e-mail.

~~[(A)]~~ The response shall include the following:

(1) a copy of the appraisal report that is the subject of the complaint;

(2) ~~[(#)]~~ a copy of the respondent's work file associated with the appraisal(s) listed in the complaint, with the following signed statement attached to the work file(s): I SWEAR AND AFFIRM THAT EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE COPY OF EACH AND EVERY APPRAISAL WORK FILE ACCOMPANYING THIS RESPONSE IS A TRUE AND CORRECT COPY OF THE ACTUAL WORK FILE, AND NOTHING HAS BEEN ADDED TO

OR REMOVED FROM THIS WORK FILE OR ALTERED AFTER PLACEMENT IN THE WORK FILE. (SIGNATURE OF RESPONDENT);

(3) [~~(iii)~~] a narrative response to the complaint, addressing each and every item in the complaint [element thereof];

(4) [~~(iii)~~] a list of any and all persons known to the respondent to have actual knowledge of any of the matters made the subject of the complaint and, if in the respondent's possession, contact information; [and]

[~~(iv)~~] the following statement in the letter transmitting the response: EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE COPY OF EACH AND EVERY APPRAISAL WORK FILE ACCOMPANYING THIS RESPONSE IS A TRUE AND CORRECT COPY OF THE ACTUAL WORK FILE, AND NOTHING HAS BEEN ADDED TO OR REMOVED FROM THIS WORK FILE OR ALTERED AFTER PLACEMENT IN THE WORK FILE. }

(5) [(B)] any [Any supporting] documentation that supports respondent's position that was not in the work file, as long as it is [must be] conspicuously labeled as non-work file documentation [such] and kept separate from the work file.

[(C)] The respondent may also address other matters not raised in the complaint that the respondent believes need explanation; and [likely to be raised and may be supported by documentation contained in the work file.]

(6) a signed, dated and completed copy of any questionnaire sent by board staff.

(g) Staff will evaluate the complaint within three months of receipt of the response from respondent to determine whether sufficient evidence of a potential violation of TALCB's statutes or rules, or the Uniform Standards of Professional Appraisal Practice (USPAP) exists to pursue investigation and possible formal disciplinary action. If the staff determines that no violation exists, or there is insufficient evidence to prove a violation, the complaint shall be dismissed with no further processing.

(h) [(7)] If the [The] complaint is not dismissed under subsection (g) of this section, a formal complaint will [shall] be opened and it will be [assigned to a staff investigator and shall be] investigated by a [the] staff investigator or peer investigative committee, as appropriate. Staff may also open a formal complaint on its own motion. A written notice that a formal complaint has been opened will be sent to the complainant and respondent.

(i) [(8)] The staff investigator or peer investigative committee assigned to investigate a formal complaint shall prepare a report detailing its findings on a form approved by the Board for that purpose. Reports prepared by a peer investigative committee shall be reviewed by the Standards and Enforcement Services Division, which shall determine the appropriate disposition of the complaint.

(j) [(9)] In determining the proper disposition of a formal complaint pending as of or filed after the effective date of this subsection, and subject to the maximum penalties authorized under Tex. Occ. Code §1103.552, staff, the administrative law judge in a contested case hearing and the Board shall consider the following sanctions guidelines and list of non-exclusive factors as demonstrated by the evidence in the record of a contested case proceeding [penalty matrix]:
[Figure: 22 TAC §153.24(9)]

(1) For the purposes of these sanctions guidelines:

(A) a person will not be considered to have had a prior warning letter, contingent dismissal or discipline if that prior warning

letter, contingent dismissal or discipline occurred more than seven (7) years ago;

(B) a prior warning letter, contingent dismissal or discipline given less than seven years ago will not be considered unless the Board had taken final action against the person before the date of the appraisal that led to the subsequent disciplinary action;

(C) prior discipline is defined as any sanction (including administrative penalty) received under a Board final or agreed order;

(D) a violation refers to a violation of any provision of the Act, Board Rules or USPAP;

(E) "minor deficiencies" is defined as violations of the Act, Board Rules or USPAP which do not impact the credibility of the appraisal assignment results, the assignment results themselves and do not impact the appraiser's honesty, trustworthiness or integrity to the Board, the appraiser's clients or intended users of the appraisal service provided;

(F) "serious deficiencies" is defined as violations of the Act, Board Rules or USPAP which do impact the credibility of the appraisal assignment results, the assignment results themselves or do impact the appraiser's honesty, trustworthiness or integrity to the Board, the appraiser's clients or intended users of the appraisal service provided;

(G) "remedial measures" include, but are not limited to, training, mentorship, education, or any combination thereof; and

(H) The terms of a contingent dismissal agreement will be in writing and agreed to by all parties. If respondent completes all remedial measures required in the agreement within a certain prescribed period of time, the complaint will be dismissed with a non-disciplinary warning letter.

(2) List of factors to consider in determining proper disposition of a formal complaint:

(A) Whether the Respondent has previously received a warning letter or contingent dismissal, and if so, the similarity of facts or violations in that previous complaint to the facts or violations in the instant complaint matter;

(B) Whether the Respondent has previously been disciplined;

(C) If previously disciplined, the nature of the discipline, including:

(i) Whether it concerned the same or similar violations or facts;

(ii) The nature of the disciplinary sanctions imposed;

(iii) The length of time since the previous discipline;

(D) The difficulty or complexity of the appraisal assignment(s) at issue;

(E) Whether the violations found were of a negligent, grossly negligent or a knowing or intentional nature;

(F) Whether the violations found involved a single appraisal/instance of conduct or multiple appraisals/instances of conduct;

(G) To whom were the appraisal report(s) or the conduct directed, with greater weight placed upon appraisal report(s) or conduct directed at;

(i) A financial institution or their agent, contemplating a lending decision based, in part, on the appraisal report(s) or conduct at issue;

(ii) The Board;

(iii) A matter which is actively being litigated in a state or federal court or before a regulatory body of a state or the federal government;

(iv) Another government agency or government sponsored entity, including, but not limited to, the United States Department of Veteran's Administration, the United States Department of Housing and Urban Development, the State of Texas, Fannie Mae, and Freddie Mac;

(v) A consumer contemplating a real property transaction involving the consumer's principal residence;

(H) Whether Respondent's violations caused any harm, including financial harm, and the amount of such harm;

(I) Whether Respondent acknowledged or admitted to violations and cooperated with the Board's investigation prior to any contested case hearing;

(J) The level of experience Respondent had in the appraisal profession at the time of the violations, including:

(i) The level of appraisal credential Respondent held;

(ii) The length of time Respondent had been an appraiser;

(iii) The nature and extent of any education Respondent had received related to the areas in which violations were found; and

(iv) Any other real estate or appraisal related background or experience Respondent had;

(K) Whether Respondent can improve appraisal skills and reports through the use of remedial measures;

(3) The sanctions guidelines contained herein shall be employed in conjunction with the factors listed in paragraph (2) of this subsection to assist in reaching the proper disposition of a formal complaint;

(A) 1st Time Discipline Level 1--violations of the Act, Board Rules, or USPAP which evidence minor deficiencies will result in one of the following outcomes:

(i) Dismissal;

(ii) Dismissal with non-disciplinary warning letter;

(iii) Contingent dismissal with remedial measures.

(B) 1st Time Discipline Level 2--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies will result in one of the following outcomes:

(i) Contingent dismissal with remedial measures;

(ii) A final order which imposes one or more of the following:

(I) Remedial measures;

(II) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(III) A probationary period with provisions for monitoring the appraiser's practice;

(IV) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(V) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(VI) Up to \$250.00 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, not to exceed \$3,000.00 in the aggregate.

(C) 1st Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(D) 2nd Time Discipline Level 1--violations of the Act, Board Rules, or USPAP which evidence minor deficiencies will result in one of the following outcomes:

(i) Dismissal;

(ii) Dismissal with non-disciplinary warning letter;

(iii) Contingent dismissal with remedial measures;

(iv) A final order which imposes one or more of the following:

(I) Remedial measures;

(II) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(III) A probationary period with provisions for monitoring the appraiser's practice;

(IV) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(V) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(VI) Up to \$250.00 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$1,000 statutory limit per complaint matter.

(E) 2nd Time Discipline Level 2--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(F) 2nd Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(G) 3rd Time Discipline Level 1--violations of the Act, Board Rules, or USPAP which evidence minor deficiencies will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) \$1,000 to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(H) 3rd Time Discipline Level 2--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(I) 3rd Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

(i) A revocation; and

(ii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(J) 4th Time Discipline--violations of the Act, Board Rules or USPAP will result in a final order which imposes the following:

(i) A revocation; and

(ii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(K) Unlicensed appraisal activity will result in a final order which imposes a \$1,500 in administrative penalties per unlicensed appraisal activity, up to the maximum \$5,000 statutory limit per complaint matter.

(4) In addition, staff may recommend any or all of the following:

(A) reducing or increasing the recommended sanction or administrative penalty for a complaint based on documented factors that support the deviation, including but not limited to those factors articulated under paragraph (2) of this subsection;

(B) probating all or a portion of any sanction or administrative penalty for a period not to exceed five years;

(C) requiring additional reporting requirements; and

(D) such other recommendations, with documented support, as will achieve the purposes of the Act, the Rules, and/or USPAP.

~~[(A) For the purposes of the above matrix, a person will not be considered to have had a prior occurrence unless the board had taken final action against the person before the date of the appraisal that led to the subsequent disciplinary action.]~~

~~[(B) In addition to the guidelines outlined in the matrix, staff may recommend any or all of the following:]~~

~~[(i) reducing or increasing the recommended penalty based on documented factors that support the deviation, including but not limited to the number or seriousness of the violation(s) and degree of harm to the public;]~~

~~[(ii) probating all or a portion of a sanction or administrative penalty for a period not to exceed five years;]~~

~~[(iii) requiring additional reporting requirements; and]~~

~~[(iv) such other recommendations, with documented support, as will achieve the purposes of the Act, the Rules, and/or USPAP.]~~

(k) [(10)] Agreed resolutions of complaint matters pursuant to Tex. Occ. Code §1103.458 or §1103.459 must be signed by the respondent, a representative of the Standards and Enforcement Services Division, and the commissioner.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Kerri T. Galvin
General Counsel

Texas Appraiser Licensing and Certification Board

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For further information, please call: (512) 936-3576



PART 9. TEXAS MEDICAL BOARD

CHAPTER 163. LICENSURE

22 TAC §163.6, §163.7

The Texas Medical Board (Board) proposes amendments to §163.6, concerning Examinations Accepted for Licensure, and §163.7, concerning Ten Year Rule.

The amendments to §163.6 and §163.7 revise the rule relating to licensure examinations so that the rules are consistent with the statute regarding passage of licensure examinations within a seven-year time period and demonstration of competence in the ten-year period preceding application for license.

Scott Freshour, General Counsel for the Board, has determined that for each year of the first five years the sections as proposed

are in effect the public benefit anticipated as a result of enforcing the proposal will be to have rules consistent with Texas statutes.

Mr. Freshour has also determined that for the first five-year period the sections are in effect there will be no fiscal implication to state or local government as a result of enforcing the sections as proposed. There will be no effect to individuals required to comply with the rules as proposed. There will be no effect on small or micro businesses.

Comments on the proposal may be submitted to Robert Blech, P.O. Box 2018, Austin, Texas 78768-2018 or e-mail comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

The amendments are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure.

No other statutes, articles or codes are affected by this proposal.

§163.6. Examinations Accepted for Licensure.

(a) Licensing Examinations Accepted by the Board for Licensure. The following examinations are acceptable for licensure:

(1) United States Medical Licensing Examination (USMLE), or its successor, with a score of 75 or better, or a passing grade if applicable, on each step;

(2) COMLEX-USA, or its successor, with a score of 75 or better, or a passing grade if applicable, on each step;

(3) Federation Licensing Examination (FLEX), on or after July 1, 1985, passage of both components with a score of 75 or better on each component;

(4) Federation Licensing Examination (FLEX), before July 1, 1985, with a FLEX weighted average of 75 or better in one sitting;

(5) National Board of Medical Examiners Examination (NBME) or its successor;

(6) National Board of Osteopathic Medical Examiners Examination (NBOME) or its successor;

(7) Medical Council of Canada Examination (LMCC) or its successor;

(8) State board licensing examination, passed before January 1, 1977, (with the exception of Virgin Islands, Guam, Tennessee Osteopathic Board or Puerto Rico then the exams must be passed before July 1, 1963); or

(9) One of the following examination combinations with a score of 75 or better on each part, level, component, or step;

(A) FLEX I plus USMLE 3;

(B) USMLE 1 and USMLE 2 (including passage of the clinical skills component if applicable), plus FLEX II;

(C) NBME I or USMLE 1, plus NBME II or USMLE 2 (including passage of the clinical skills component if applicable), plus NBME III or USMLE 3;

(D) NBME I or USMLE 1, plus NBME II or USMLE 2 (including passage of the clinical skills component if applicable), plus FLEX II;

(E) The NBOME Part I or COMLEX Level I and NBOME Part II or COMLEX Level II and NBOME Part III or COMLEX Level III.

(b) Examination Attempt Limit.

(1) An applicant must pass each part of an examination listed in subsection (a) of this section within three attempts. An applicant who attempts more than one type of examination must pass each part of at least one examination and shall not be allowed to combine parts of different types of examination.

(2) Notwithstanding paragraph (1) of this subsection, an applicant who, on September 1, 2005, held a Texas physician-in-training permit issued under §155.105 of the Act or had an application for that permit pending before the board must pass each part of the examination within three attempts, except that, if the applicant has passed all but one part of the examination within three attempts, the applicant may take the remaining part of the examination one additional time. However, an applicant is considered to have satisfied the requirements of this subsection if the applicant:

(A) passed all but one part of the examination approved by the board within three attempts and passed the remaining part of the examination within six attempts;

(B) is specialty board certified by a specialty board that:

(i) is a member of the American Board of Medical Specialties; or

(ii) is approved by the American Osteopathic Association; and

(iii) has completed in this state an additional two years of postgraduate medical training approved by the board.

(3) The limitation on examination attempts by an applicant under paragraph (1) of this subsection does not apply to an applicant who:

(A) is licensed and in good standing as a physician in another state;

(B) has been licensed for at least five years;

(C) does not hold a medical license in the other state that has any restrictions, disciplinary orders, or probation; and

(D) passed all but one part of the examination approved by the board within three attempts and:

(i) passed the remaining part of the examination within one additional attempt; or

(ii) passed the remaining part of the examination within six attempts if the applicant:

(I) is specialty board certified by a specialty board that:

(-a-) is a member of the American Board of Medical Specialties; or

(-b-) is approved by the American Osteopathic Association; and

(II) has completed in this state an additional two years of postgraduate medical training approved by the board.

(4) Attempts at a comparable part of a different type of examination shall be counted against the three attempt limit.

(c) Limit on Time to Complete Examination.

(1) An applicant must pass all parts of an examination listed in subsection (a)(1), (2), (4), (5), [ø] (6), or (7) of this section within seven years; or

(2) If the applicant is a graduate of a program designed to lead to both a doctor of philosophy degree and a doctor of medicine degree or doctor of osteopathy degree, the applicant may qualify by passing each part of an examination listed in subsection (a)(1), (2), (4), (5), or (6) of this section not later than the second anniversary of the date the applicant completed the required graduate medical training.

(d) The time frame to pass each part of the examination described by subsection (c)(1) of this section is extended to 10 years and the anniversary date to pass each part of the examination described by subsection (c)(2) of this section is extended to the 10th anniversary if the applicant:

(1) is specialty board certified by a specialty board that:

(A) is a member of the American Board of Medical Specialties; or

(B) is a member of the Bureau of Osteopathic Specialists; or

(2) has been issued a faculty temporary license, as prescribed by board rule, and has practiced under such a license for a minimum of 12 months and, at the conclusion of the 12-month period, has been recommended to the board by the chief administrative officer and the president of the institution in which the applicant practiced under the faculty temporary license.

(e) Texas Medical Jurisprudence Examination (JP Exam).

(1) In this chapter, when applicants are required to pass the JP exam, applicants must pass the JP exam with a score of 75 or better within three attempts, unless the Board allows an additional attempt based upon a showing of good cause. An applicant who is unable to pass the JP exam within three attempts must appear before the Licensure Committee of the board to address the applicant's inability to pass the examination and to re-evaluate the applicant's eligibility for licensure. It is at the discretion of the committee to allow an applicant additional attempts to take the JP exam.

(2) An examinee shall not be permitted to bring medical books, compendia, notes, medical journals, calculators or other help into the examination room, nor be allowed to communicate by word or sign with another examinee while the examination is in progress without permission of the presiding examiner, nor be allowed to leave the examination room except when so permitted by the presiding examiner.

(3) Irregularities during an examination such as giving or obtaining unauthorized information or aid as evidenced by observation or subsequent statistical analysis of answer sheets, shall be sufficient cause to terminate an applicant's participation in an examination, invalidate the applicant's examination results, or take other appropriate action.

(4) A person who has passed the JP Exam shall not be required to retake the Exam for another or similar license, except as a specific requirement of the board.

(5) The Board shall provide reasonable examination accommodations to applicants diagnosed with dyslexia. Satisfactory proof of an applicant's dyslexia is:

(A) proof of accommodations made by any entity which administers a national licensing examination accepted for licensure in this section;

(B) proof of accommodations made by a specialty board recognized by the ABMS or BOS; or

(C) documentation from a medical professional acceptable to the board regarding the applicant's condition and need for accommodations.

§163.7. Ten Year Rule.

An applicant who has not passed an examination listed in §163.6(a) of this title (relating to Examinations Accepted for Licensure) for licensure within the ten-year period prior to the filing date of the application must:

(1) present evidence of current certification by a member board of the American Board of Medical Specialties or Bureau of Osteopathic Specialists, or by the American Board of Oral and Maxillofacial Surgery, obtained by passing, within the ten years prior to date of applying for licensure, a monitored:

- (A) specialty certification examination;
- (B) maintenance of certification examination; or
- (C) continuous certification examination.

(2) obtain through extraordinary circumstances, unique training equal to the training required for specialty certification as determined by a committee of the board and approved by the board, including but not limited to the practice of medicine [participation] for at least six months under a faculty temporary license or six months in a training program approved by the board within twelve months prior to the application for licensure; or

(3) pass the Special Purpose Examination (SPEX) within the preceding ten years. The applicant must score 75 or better within three attempts.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 22, 2013.

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Mari Robinson, J.D.

Executive Director

Texas Medical Board

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For further information, please call: (512) 305-7016



CHAPTER 172. TEMPORARY AND LIMITED LICENSES

SUBCHAPTER B. TEMPORARY LICENSES

22 TAC §172.8

The Texas Medical Board (Board) proposes amendments to §172.8, concerning Faculty Temporary License.

The amendment clarifies that time spent under a Faculty Temporary License (FTL) may satisfy the ten-year rule requirement for specialty training.

Scott Freshour, General Counsel for the Board, has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing

this proposal will be to allow physicians who participated in two-year residencies to be eligible for an FTL. An additional public benefit is to allow six months under an FTL to be used toward the ten-year specialty requirement.

Mr. Freshour has also determined that for the first five-year period the section is in effect there will be no fiscal implication to state or local government as a result of enforcing the section as proposed. There will be no effect to individuals required to comply with the rule as proposed. There will be no effect on small or micro businesses.

Comments on the proposal may be submitted to: Robert Blech, P.O. Box 2018, Austin, Texas 78768-2018 or e-mail comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

The amendments are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rule and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure.

The amendments are also authorized by §153.001, Texas Occupations Code.

No other statutes, articles or codes are affected by this proposal.

§172.8. Faculty Temporary License.

(a) The board may issue a faculty temporary license to practice medicine to a physician in accordance with §155.104, Texas Occupations Code. "Physician," as used in that statute and in this section, is interpreted to mean a person who holds an M.D., D.O., or equivalent degree and who is licensed to practice medicine in another state or a Canadian province or has completed at least two [three] years of post-graduate residency, but does not hold a license to practice medicine in this state.

(1) Each medical license held in any state, territory, or Canadian province must be free of any restrictions, disciplinary order or probation.

(2) The physician must have passed the Texas medical jurisprudence examination within three attempts, with a score of 75 or better, unless the board allows an additional attempt based upon a showing of good cause. An applicant who is unable to pass the JP exam within three attempts must appear before the licensure committee of the board to address the applicant's inability to pass the examination and to re-evaluate the applicant's eligibility for licensure. It is at the discretion of the committee to allow an applicant additional attempts to take the JP exam.

(3) "Institution," as used in this section, shall mean any of the following:

(A) a school of medicine in this state accredited by the Liaison Committee on Medical Education or the American Osteopathic Association Bureau of Professional Education;

(B) The University of Texas Health Science Center at Tyler;

(C) The University of Texas M.D. Anderson Cancer Center;

(D) an institutional sponsor of a graduate medical education program accredited by the Accreditation Council for Graduate Medical Education or;

(E) a nonprofit health corporation certified under §162.00, Medical Practice Act, and affiliated with a program as described in subparagraph (D) of this paragraph.

(4) The physician must:

(A) hold a salaried faculty position equivalent to a assistant professor-level or higher as determined by the institution working full-time in one of the institutions; or

(B) hold a faculty position equivalent to a assistant professor-level or higher as determined by the institution, work at least part-time in one of the institutions; and

(i) be on active duty in the United States military; and

(ii) be engaged in a practice under the faculty temporary license that will fulfill a critical need of the citizens of Texas.

(5) The physician must sign an oath on a form provided by the board swearing that the physician has read and is familiar with board rules and the Medical Practice Act; will abide by board rules and the Medical Practice Act in activities permitted by this section; and will subject themselves to the disciplinary procedures of the board.

(b) The faculty temporary license shall be issued for a period of one year. The holder of a faculty temporary license may apply for one or more successive faculty temporary licenses.

(c) The faculty temporary license holder's practice of medicine shall be limited to the teaching confines of the applying institution as a part of duties and responsibilities assigned by the institution to the physician.

(d) The physician may participate in the full activities of the department of any hospital for which the physician's institution has full responsibility for clinical, patient care, and teaching activities. "Full responsibility" means that the institution has agreed to provide physicians to see patients in the hospital and that the institution provides any necessary supervision for such physicians.

(e) The physician and the institution shall file affidavits with the board affirming acceptance of the terms, limitations, and conditions imposed by the board on the medical activities of the physician. The institution must also affirm in its affidavit that prior to filing the affidavit, the institution has reviewed the physician's criminal background, disciplinary history with other state licensing entities, and medical malpractice history.

(f) The application and fee for the faculty temporary license shall be presented to the executive director of the board at least 30 days prior to the effective date of the appointment of the physician.

(g) The application shall be made by the chairman of the department of the institution in which the physician teaches or the person holding the equivalent position at the institution where the physician teaches, and provide such information and documentation to the board as may be requested.

(h) The application shall be endorsed by the dean of the medical school or by the president of the institution. An endorsement must include a statement that the medical school or institution has investigated and determined the physician to be of good professional character and fit to practice medicine. An endorsement shall also state that the medical school or institution has accepted the responsibility to properly supervise the medical activities of the physician.

(i) Two years in a teaching faculty position under a faculty temporary license at any institution listed in subsection (a)(3) of this section may be equivalent to two years of approved postgraduate training if, at the conclusion of this two-year period, the physician presents recommendations in his or her behalf from the chief administrative officer and the president of the institution. A recommendation must include verification that the physician has completed at least two years in a teaching faculty position under a faculty temporary license at the level of assistant professor or higher and that the duties of the physician in such position required activities that demonstrate that the physician's medical competence is substantially equivalent to the competence of a person who has completed two years of an approved postgraduate residency program as described in §171.3(a)(1) of this title (relating to Physician-in-Training Permits). Each year in a teaching faculty position under a faculty temporary license shall be considered the equivalent of one year of approved postgraduate training.

(j) An applicant is not eligible for a faculty temporary license if:

(1) the applicant holds a medical license that is currently restricted for cause, canceled for cause, suspended for cause, or revoked by a state of the United States, a province of Canada, or a uniformed service of the United States;

(2) an investigation or a proceeding is instituted against the applicant for the restriction, cancellation, suspension, or revocation of the applicant's medical license in a state of the United States, a province of Canada, or a uniformed service of the United States; or

(3) a prosecution is pending against the applicant in any state, federal, or Canadian court for any offense that under the laws of this state is a felony or a misdemeanor that involves moral turpitude.

(k) Six months under a faculty temporary license may be used to meet the requirements under §163.7(2) of this title (relating to Ten Year Rule).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 22, 2013.

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Mari Robinson, J.D.

Executive Director

Texas Medical Board

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CHAPTER 175. FEES AND PENALTIES

22 TAC §175.5

The Texas Medical Board (Board) proposes amendments to §175.5, concerning Payment of Fees or Penalties.

The amendment provides that if an applicant or licensee dies more than 90 days after having paid a fee, survivors may submit a written request for a refund demonstrating good cause for a pro-rated refund.

Scott Freshour, General Counsel for the Board, has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing this proposal will be to allow equitable refunds of licensing fees for survivors and personal representatives of applicants who die within 90 days of paying an application fee to the Board.

Mr. Freshour has also determined that for the first five-year period the section is in effect there will be no fiscal implication to state or local government as a result of enforcing the section as proposed. There will be no effect to individuals required to comply with the rule as proposed. There will be no effect on small or micro businesses.

Comments on the proposal may be submitted to Robert Blech, P.O. Box 2018, Austin, Texas 78768-2018 or e-mail comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

The amendments are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure.

The amendments are also authorized by §153.001, Texas Occupations Code.

No other statutes, articles or codes are affected by this proposal.

§175.5. Payment of Fees or Penalties.

(a) Method of Payment. Fees paid online must be submitted by credit card, electronic check, or debit card, as required by the online application. All other licensure fees or penalties must be submitted in the form of a money order, personal check, or cashier's check payable on or through a United States bank. Fees and penalties cannot be refunded except as provided in subsection (c) of this section. If a single payment is made for more than one individual permit, it must be made for the same class of permit and a detailed listing, on a form prescribed by the board, must be included with each payment.

(b) Additional Fees Based on Method of Payment.

(1) Online payments. Applicants and licensees who submit payments online may be subject to convenience fees set by the Department of Information Resources, that are in addition to the fees listed in §§175.1 - 175.3 of this title (relating to Application and Administrative Fees, Registration and Renewal Fees and Penalties).

(2) Payments submitted for hard-copy registration. Licensees who choose to register on paper if online processing is available will be subject to an additional fee of \$50 collected by the board, in addition to the fees listed in §§175.1 - 175.3 of this title.

(c) Refunds. Refunds of fees may be granted under the following circumstances:

(1) Administrative error by the Board;

(2) Licensure applicants who do not appear before the Licensure Committee and who withdraw their applications and request a refund within 30 days of being notified by board staff that they are ineligible for licensure;

(3) Applicants who withdraw a licensure application after applying for multiple types of licensure at the same time but then either elect to pursue only one type of license or the Board approves one type of license before completing the review of the other applications;

(4) Applicants who apply for temporary licenses but do not receive a temporary license due to the issuance of full licensure;

(5) Licensees who retire or request cancellation of their licenses within 90 days of paying the registration fee;

(6) Applicants or licensees who die within 90 days of having paid a fee; [or]

(7) If the applicant or licensee has died more than 90 days after having paid a fee and a spouse or personal representative has submitted a written request for a refund demonstrating good cause for a pro-rated refund; or

(8) [(7)] Applicants who withdraw their applications within 45 days of initial application.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Mari Robinson, J.D.

Executive Director

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CHAPTER 187. PROCEDURAL RULES

SUBCHAPTER F. TEMPORARY SUSPENSION AND RESTRICTION PROCEEDINGS

22 TAC §187.57

The Texas Medical Board (Board) proposes amendments to §187.57, concerning Charge of the Disciplinary Panel.

The amendment adds missing language to correct a typographical error that was adopted previously by the Board.

Scott Freshour, General Counsel for the Board, has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing this proposal will be to have rules consistent with Texas statutes.

Mr. Freshour has also determined that for the first five-year period the section is in effect there will be no fiscal implication to state or local government as a result of enforcing the section as proposed. There will be no effect to individuals required to comply with the rule as proposed. There will be no effect on small or micro businesses.

Comments on the proposal may be submitted to Robert Blech, P.O. Box 2018, Austin, Texas 78768-2018 or e-mail comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

The amendments are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure.

The amendments are also authorized by §153.001, Texas Occupations Code.

No other statutes, articles or codes are affected by this proposal.

§187.57. Charge of the Disciplinary Panel.

(a) The disciplinary panel shall determine from the evidence or information presented to it whether a person's continuation in practice constitutes a continuing threat to the public welfare.

(b) If the disciplinary panel determines that a person's continuation in practice would constitute a continuing threat to the public welfare, the disciplinary panel shall temporarily suspend or restrict the license of that person.

(c) In accordance with the Act, §151.002(a)(2), "continuing threat to the public welfare," means a real danger to the health of a physician's patients or the public caused through the physician's lack of competence, impaired status, or failure to care adequately for the physician's patients. A real danger exists if patients have an exposure to or risk of injury that is not merely abstract, hypothetical or remote and is based on actual actions or inactions of the physician. Information that the physician has committed similar actions or inactions in the past shall be considered by the disciplinary panel [dise].

(d) The disciplinary panel may also temporarily restrict or suspend a license of a person upon proof that a person has been arrested for an offense under:

(1) Section 22.011(a)(2), Penal Code (sexual assault of a child);

(2) Section 22.021(a)(1)(B), Penal Code (aggravated sexual assault of a child);

(3) Section 21.02, Penal Code (continuous sexual abuse of a young child or children); or

(4) Section 21.11, Penal Code (indecent with a child).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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CHAPTER 196. VOLUNTARY RELINQUISHMENT OR SURRENDER OF A MEDICAL LICENSE

22 TAC §196.2

The Texas Medical Board (Board) proposes amendments to §196.2, concerning Surrender Associated with Disciplinary Action.

The amendment corrects language to indicate that a licensee may agree to surrender license in lieu of further investigation or a hearing.

Scott Freshour, General Counsel for the Board, has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing this proposal will be to clarify the standards for surrenders associated with disciplinary action.

Mr. Freshour has also determined that for the first five-year period the section is in effect there will be no fiscal implication to state or local government as a result of enforcing the section as

proposed. There will be no effect to individuals required to comply with the rule as proposed. There will be no effect on small or micro businesses.

Comments on the proposal may be submitted to Robert Blech, P.O. Box 2018, Austin, Texas 78768-2018 or e-mail comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

The amendments are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure.

The amendments are also authorized by §153.001, Texas Occupations Code.

No other statutes, articles or codes are affected by this proposal.

§196.2. Surrender Associated with Disciplinary Action.

(a) When a licensee has surrendered his or her Texas medical license in lieu of a hearing or further investigation of alleged violations of the Medical Practice Act ("the Act"), Title 3 Subtitle B Tex. Occ. Code, and its subsequent amendments, such a surrender shall be considered surrender associated with a disciplinary action.

(b) If the surrender of a Texas medical license was associated with disciplinary action, the Texas medical license shall not be returned to the licensee if the board's order on the merits of the disciplinary action is inconsistent with the return of that license. In addition to requirements set out in §196.4 of this chapter (relating to Relicensure after Relinquishment or Surrender of License), a licensee who reapplies for licensure must demonstrate that the licensee's return to the practice is in the best interest of the public as defined under §167.5 of this title (relating to Best Interests of the Public).

(c) If a licensee agrees to permanently surrender his or her license in lieu of further investigation or hearing [disciplinary action], the licensee forfeits all rights to apply for any type of licensure with the board.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Mari Robinson, J.D.

Executive Director

Texas Medical Board

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For further information, please call: (512) 305-7016



CHAPTER 197. EMERGENCY MEDICAL SERVICE

22 TAC §197.3

The Texas Medical Board (Board) proposes amendments to §197.3, concerning Off-Line Medical Director.

The amendment provides that a physician may not be an off-line medical director if the physician has been suspended or revoked

for cause by any governmental agency or the physician has been excluded from Medicare, Medicaid, or CHIP.

Scott Freshour, General Counsel for the Board, has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing this proposal will be to protect the public health and safety.

Mr. Freshour has also determined that for the first five-year period the section is in effect there will be no fiscal implication to state or local government as a result of enforcing the section as proposed. There will be no effect to individuals required to comply with the rule as proposed. There will be no effect on small or micro businesses.

Comments on the proposal may be submitted to Robert Blech, P.O. Box 2018, Austin, Texas 78768-2018 or e-mail comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

The amendments are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure.

The amendments are also authorized by §153.001, Texas Occupations Code.

No other statutes, articles or codes are affected by this proposal.

§197.3. Off-line Medical Director.

(a) An off-line medical director shall be:

(1) a physician licensed to practice in Texas and shall be registered as an EMS medical director with the Texas Department of State Health Services;

(2) familiar with the design and operation of EMS systems;

(3) experienced in prehospital emergency care and emergency management of ill and injured patients;

(4) actively involved in:

(A) the training and/or continuing education of EMS personnel, under his or her direct supervision, at their respective levels of certification;

(B) the medical audit, review, and critique of the performance of EMS personnel under his or her direct supervision;

(C) the administrative and legislative environments affecting regional and/or state prehospital EMS organizations;

(5) knowledgeable about local multi-casualty plans;

(6) familiar with dispatch and communications operations of prehospital emergency units; and

(7) knowledgeable about laws and regulations affecting local, regional, and state EMS operations.

(b) The off-line medical director shall be required to:

(1) approve the level of prehospital care which may be rendered locally by each of the EMS personnel employed by and/or volunteering with the EMS under the medical director's supervision, regardless of the level of state certification or licensure, before the certificent or licensee is permitted to provide such care to the public;

(2) establish and monitor compliance with field performance guidelines for EMS personnel;

(3) establish and monitor compliance with training guidelines which meet or exceed the minimum standards set forth in the Texas Department of State Health Services EMS certification regulations;

(4) develop, implement, and revise protocols and/or standing delegation orders, if appropriate, governing prehospital care and medical aspects of patient triage, transport, transfer, dispatch, extrication, rescue, and radio-telephone-telemetry communication by the EMS;

(5) direct an effective system audit and quality assurance program;

(6) determine standards and objectives for all medically related aspects of operation of the EMS including the inspection, evaluation, and approval of the system's performance specifications;

(7) function as the primary liaison between the EMS administration and the local medical community, ascertaining and being responsive to the needs of each;

(8) develop a letter or agreement or contract between the medical director(s) and the EMS administration outlining the specific responsibilities and authority of each. The agreement should describe the process or procedure by which a medical director may withdraw responsibility for EMS personnel for noncompliance with the Emergency Medical Services Act, the Health and Safety Code, Chapter 773, the rules adopted in this chapter, and/or accepted medical standards;

(9) take or recommend appropriate remedial or corrective measures for EMS personnel, in conjunction with local EMS administration, which may include, but are not limited to, counseling, retraining, testing, probation, and/or field preceptorship;

(10) suspend a certified EMS individual from medical care duties for due cause pending review and evaluation;

(11) establish the circumstances under which a patient might not be transported;

(12) establish the circumstances under which a patient may be transported against his or her will in accordance with state law, including approval of appropriate procedures, forms, and a review process;

(13) establish criteria for selection of a patient's destination;

(14) develop and implement a comprehensive mechanism for management of patient care incidents, including patient complaints, allegations of substandard care, and deviations from established protocols and patient care standards;

(15) only approve care or activity that was provided at the time the medical director was employed, contracted or volunteering as a medical director;

(16) notify the board at time of licensure registration under §166.1 of this title (relating to Physician Registration) of the physician's position as medical director and the names of all EMS providers for whom that physician holds the position of off-line medical director;

(17) complete the following educational requirements:

(A) within two years, either before or after initial notification to the board of holding the position as off-line medical director:

(i) 12 hours of formal continuing medical education (CME) as defined under §166.2 of this title (relating to Continuing Medical Education) in the area of EMS medical direction;

(ii) board certification in Emergency Medical Services by the American Board of Medical Specialties or a Certificate of Added Qualification in EMS by the American Osteopathic Association Bureau of Osteopathic Specialists; or

(iii) a DSHS approved EMS medical director course; and

(B) every two years after meeting the requirements of subparagraph (A) of this paragraph, one hour of formal CME in the area of EMS medical direction.

(c) A physician may not hold the position of off-line medical director:

(1) for more than 20 EMS providers unless the physician obtains a waiver under subsection (d) of this section; or

(2) for any EMS provider if the physician has been suspended or revoked for cause by any governmental agency or the physician has been excluded from Medicare, Medicaid, or CHIP; has been removed for cause by any governmental agency].

(d) The board may grant a waiver to allow a physician to serve as an off-line medical director for more than 20 EMS providers, if the physician provides evidence that:

(1) the Department of State Health Services has reviewed the waiver request and has determined that the waiver in the best interest of the public;

(2) the physician is in compliance with this chapter, by submitting documentation of protocols and standing orders upon request; and

(3) appropriate safeguards exist for patient care and adequate supervision of all EMS personnel under the physician's supervision.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 22, 2013.

TRD-201300796

Mari Robinson, J.D.
Executive Director
Texas Medical Board

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 305-7016



PART 15. TEXAS STATE BOARD OF PHARMACY

CHAPTER 281. ADMINISTRATIVE PRACTICE AND PROCEDURES

SUBCHAPTER C. DISCIPLINARY GUIDELINES

22 TAC §281.61

The Texas State Board of Pharmacy proposes amendments to §281.61 concerning Definitions of Discipline Authorized. The

amendments, if adopted, update the definitions to include registrants.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Dodson has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the rule will be to update and clarify that registrants are included in the definitions. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with this section.

Comments on the proposed amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-8008. Comments must be received by 5:00 p.m., April 30, 2013.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§281.61. Definitions of Discipline Authorized.

For the purpose of the Act, §565.051 and §568.0035:

(1) "Probation" means the suspension of a sanction imposed against a license or registration during good behavior, for a term and under conditions as determined by the board.

(2) "Reprimand" means a public and formal censure against a license or registration.

(3) "Restrict" means to limit, confine, abridge, narrow, or restrain a license or registration for a term and under conditions determined by the board.

(4) "Revoke" means a license or registration is void and may not be reissued; provided, however, upon the expiration of 12 months from and after the effective date of the order revoking a [pharmacist] license or registration, application may be made to the board by the former licensee or registrant for the issuance of a license or registration upon the successful completion of any requirements determined [examination required] by the board.

(5) "Suspend" means a license or registration is of no further force and effect for a period of time as determined by the board.

(6) "Retire" means a license or registration has been withdrawn and is of no further force and effect.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300856



CHAPTER 291. PHARMACIES

SUBCHAPTER B. COMMUNITY PHARMACY (CLASS A)

22 TAC §291.33

The Texas State Board of Pharmacy proposes amendments to §291.33 concerning Operational Standards. The amendments, if adopted, clarify and update the section to be consistent with other sections; require documentation of a consultation with a prescriber regarding a prescription; and change the days supply for alternate labeling from 34-day supply or 100 dosage units whichever is less to a 90-day supply.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Dodson has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the rule will be to update and clarify the Class A rules regarding the operation of a pharmacy. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with this section.

Comments on the proposed amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-8008. Comments must be received by 5:00 p.m., April 30, 2013.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§291.33. Operational Standards.

(a) Licensing requirements.

(1) A Class A pharmacy shall register annually or biennially with the board on a pharmacy license application provided by the board, following the procedures as specified in §291.1 of this title (relating to Pharmacy License Application).

(2) - (3) (No change.)

(4) A Class A pharmacy owned by a partnership or corporation which changes managing officers shall notify the board in writing of the names of the new managing officers within ten days of the change, following the procedures as specified in §291.3 of this title.

(5) A Class A pharmacy shall notify the board in writing within ten days of closing, following the procedures as specified in §291.5 of this title (relating to Closing a Pharmacy).

(6) - (7) (No change.)

(8) A Class A pharmacy, licensed under the provisions of the Act, §560.051(a)(1), which also operates another type of pharmacy which would otherwise be required to be licensed under the Act, §560.051(a)(2) concerning Nuclear Pharmacy (Class B), is not required to secure a license for such other type of pharmacy; provided, however, such licensee is required to comply with the provisions of Subchapter C of this chapter (relating to [§291.51 of this title (relating to Purpose), §291.52 of this title (relating to Definitions), §291.53 of this title (relating to Personnel), §291.54 of this title (relating to Operational Standards), and §291.55 of this title (relating to Records), contained in] Nuclear Pharmacy (Class B)), to the extent such sections are applicable to the operation of the pharmacy.

(9) A Class A [~~community~~] pharmacy engaged in the compounding of non-sterile pharmaceuticals shall comply with the provisions of §291.131 of this title (relating to Pharmacies Compounding Non-Sterile Preparations).

(10) A Class A [~~community~~] pharmacy engaged in the compounding of sterile pharmaceuticals shall comply with the provisions of §291.133 of this title (relating to Pharmacies Compounding Sterile Preparations).

(11) A Class A [~~Community~~] pharmacy engaged in the provision of remote pharmacy services, including storage and dispensing of prescription drugs, shall comply with the provisions of §291.121 of this title (relating to Remote Pharmacy Services).

(12) Class A [~~Community~~] pharmacy engaged in centralized prescription dispensing and/or prescription drug or medication order processing shall comply with the provisions of §291.123 of this title (relating to Centralized Prescription Drug or Medication Order Processing) and/or §291.125 of this title (relating to Centralized Prescription Dispensing).

(b) Environment.

(1) General requirements.

(A) - (B) (No change.)

(C) A Class A pharmacy which serves the general public shall contain an area which is suitable for confidential patient counseling.

(i) Such counseling area shall be:

(I) [~~be~~] easily accessible to both patient and pharmacists and not allow patient access to prescription drugs;

(II) [~~be~~] designed to maintain the confidentiality and privacy of the pharmacist/patient communication.

(ii) (No change.)

(D) (No change.)

(E) The temperature of the pharmacy shall be maintained within a range compatible with the proper storage of drugs. ~~The~~ the temperature of the refrigerator shall be maintained within a range compatible with the proper storage of drugs requiring refrigeration.

(F) Animals, including birds and reptiles, shall not be kept within the pharmacy and in immediately adjacent areas under the control of the pharmacy. This provision does not apply to fish in aquariums, service animals [~~guide dogs~~] accompanying disabled persons, or animals for sale to the general public in a separate area that is inspected by local health jurisdictions.

(G) (No change.)

(2) Security.

(A) - (D) (No change.)

(E) Written policies and procedures for the pharmacy's security shall be developed and implemented by the pharmacist-in-charge and/or the owner of the pharmacy. Such policies [policies] and procedures may include quarterly audits of controlled substances commonly abused or diverted; perpetual inventories for the comparison of the receipt, dispensing, and distribution of controlled substances; monthly reports from the pharmacy's wholesaler(s) of controlled substances purchased by the pharmacy; opening and closing procedures; product storage and placement; and central management oversight.

(3) (No change.)

(c) Prescription dispensing and delivery.

(1) Patient counseling and provision of drug information.

(A) To optimize drug therapy, a pharmacist shall communicate to the patient or the patient's agent, information about the prescription drug or device which in the exercise of the pharmacist's professional judgment the pharmacist deems significant, such as the following:

(i) - (iv) (No change.)

(v) techniques for self-monitoring of drug therapy;

(vi) - (viii) (No change.)

(B) Such communication shall be:

(i) [~~shall be~~] provided with each new prescription drug order;

(ii) [~~shall be~~] provided for any prescription drug order dispensed by the pharmacy on the request of the patient or patient's agent;

(iii) [~~shall be~~] communicated orally in person unless the patient or patient's agent is not at the pharmacy or a specific communication barrier prohibits such oral communication;

(iv) [~~shall be~~] documented by recording the initials or identification code of the pharmacist providing the counseling in the prescription dispensing record as follows:

(I) - (IV) (No change.)

(v) [~~shall be~~] reinforced with written information relevant to the prescription and provided to the patient or patient's agent. The following is applicable concerning this written information.

(I) Written information must be in plain language designed for the patient [consumer] and printed in an easily readable font size comparable to but no smaller than ten-point Times Roman.

(II) When a compounded preparation [product] is dispensed, information shall be provided for the major active ingredient(s), if available.

(III) - (IV) (No change.)

(C) - (D) (No change.)

(E) In addition to the requirements of subparagraphs (A) - (D) of this paragraph, if a prescription drug order is delivered to the patient at the pharmacy, the following is applicable.

(i) - (ii) (No change.)

(iii) A Class A pharmacy shall make available for use by the public a current or updated patient prescription drug

information reference text or leaflets [edition of the United States Pharmacopeia Dispensing Information, Volume II (Advice to the Patient); or another source of such information] designed for the patient [consumer].

(F) In addition to the requirements of subparagraphs (A) - (D) of this paragraph, if a prescription drug order is delivered to the patient or his or her agent at the patient's residence or other designated location, the following is applicable.

(i) The information as specified in subparagraph (A) of this paragraph shall be delivered with the dispensed prescription in writing.

(ii) - (v) (No change.)

(G) - (I) (No change.)

(2) Pharmaceutical care services.

(A) Drug regimen review.

(i) (No change.)

(ii) Upon identifying any clinically significant conditions, situations, or items listed in clause (i) of this subparagraph, the pharmacist shall take appropriate steps to avoid or resolve the problem including consultation with the prescribing practitioner. The pharmacist shall document such occurrences as specified in subparagraph (C) of this paragraph.

(iii) (No change.)

(iv) Prior to dispensing, any [~~Any~~] questions regarding a prescription drug order must be resolved with the prescriber and written documentation of these discussions made and maintained as specified in subparagraph (C) of this paragraph.

(B) Other pharmaceutical care services which may be provided by pharmacists include, but are not limited to, the following:

(i) managing drug therapy as delegated by a practitioner as allowed under the provisions of the Medical Practices Act;

(ii) - (v) (No change.)

(C) Documentation of consultation. When a pharmacist consults a prescriber as described in subparagraph (A) of this paragraph the pharmacist shall document on the hard-copy or in the pharmacy's data processing system associated with the prescription such occurrences and shall include the following information:

(i) date the prescriber was consulted;

(ii) name of the person communicating the prescriber's instructions;

(iii) any applicable information pertaining to the consultation; and

(iv) initials or identification code of the pharmacist performing the consultation clearly recorded for the purpose of identifying the pharmacist who performed the consultation if on the information is recorded on the hard-copy prescription.

(3) - (4) (No change.)

(5) Therapeutic Drug Interchange. A switch to a drug providing a similar therapeutic response to the one prescribed shall not be made without prior approval of the prescribing practitioner. This paragraph does not apply to generic substitution. For generic substitution, see the requirements of paragraph (3) of this subsection.

(A) - (B) (No change.)

(C) The provisions of this paragraph do not apply to prescriptions for patients in facilities where drugs are administered to patients by a person required to do so by the laws of this state if the practitioner issuing the prescription has agreed to use of a formulary that includes a listing of therapeutic interchanges that the practitioner has agreed to allow. The pharmacy must maintain a copy of the formulary including a list of the practitioners that have agreed to the formulary and the signature of these practitioners.

(6) (No change.)

(7) Labeling.

(A) At the time of delivery of the drug, the dispensing container shall bear a label in plain language and printed in an easily readable font size, unless otherwise specified, with at least the following information:

(i) - (v) (No change.)

(vi) if the prescription was signed by a pharmacist, the name of the pharmacist who signed the prescription for a dangerous drug under delegated authority of a physician as specified in Subtitle B, Chapter 157, Occupations Code;

(vii) [~~(vi)~~] name of the patient or if such drug was prescribed for an animal, the species of the animal and the name of the owner that is printed in an easily readable font size comparable to but no smaller than ten-point Times Roman. The name of the patient's partner or family member is not required to be on the label of a drug prescribed for a partner for a sexually transmitted disease or for a patient's family members if the patient has an illness determined by the Centers for Disease Control and Prevention, the World Health Organization, or the Governor's office to be pandemic;

(viii) [~~(vii)~~] instructions for use that is printed in an easily readable font size comparable to but no smaller than ten-point Times Roman;

(ix) [~~(viii)~~] quantity dispensed;

(x) [~~(ix)~~] appropriate ancillary instructions such as storage instructions or cautionary statements such as warnings of potential harmful effects of combining the drug product with any product containing alcohol;

(xi) [~~(x)~~] if the prescription is for a Schedules II - IV controlled substance, the statement "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed";

(xii) [~~(xi)~~] if the pharmacist has selected a generically equivalent drug pursuant to the provisions of the Act, Chapter 562 [Chapters 562 and 563], the statement "Substituted for Brand Prescribed" or "Substituted for 'Brand Name'" where "Brand Name" is the actual name of the brand name product prescribed;

[~~(xii)~~] the name of the advanced practice nurse or physician assistant and the name of the supervising physician, if the prescription is carried out or signed by an advanced practice nurse or physician assistant in compliance with Subtitle B, Chapter 157, Occupations Code;]

[~~(xiii)~~] the name of the pharmacist who signed the prescription for a dangerous drug under delegated authority of a physician as specified in Subtitle B, Chapter 157, Occupations Code, and the name of the supervising physician;]

(xiii) [~~(xiv)~~] the name and strength of the actual drug product dispensed that is printed in an easily readable font size

comparable to but no smaller than ten-point Times Roman, unless otherwise directed by the prescribing practitioner;

(I) The name shall be either:

(-a-) the brand name; or

(-b-) if no brand name, then the generic name and name of the manufacturer or distributor of such generic drug. (The name of the manufacturer or distributor may be reduced to an abbreviation or initials, provided the abbreviation or initials are sufficient to identify the manufacturer or distributor. For combination drug products or non-sterile compounded drug preparations [~~products~~] having no brand name, the principal active ingredients shall be indicated on the label.)

(II) Except as provided in clause (xii) [~~(xi)~~] of this subparagraph, the brand name of the prescribed drug shall not appear on the prescription container label unless it is the drug product actually dispensed.

(xiv) [~~(xv)~~] if the drug is dispensed in a container other than the manufacturer's original container, the date after which the prescription should not be used or beyond-use-date. Unless otherwise specified by the manufacturer, the beyond-use-date shall be one year from the date the drug is dispensed or the manufacturer's expiration date, whichever is earlier. The beyond-use-date may be placed on the prescription label or on a flag label attached to the bottle. A beyond-use-date is not required on the label of a prescription dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication; and

(xv) [~~(xvi)~~] either on the prescription label or the written information accompanying the prescription, the statement "Do not flush unused medications or pour down a sink or drain." A drug product on a list developed by the Federal Food and Drug Administration of medicines recommended for disposal by flushing is not required to bear this statement.

(B) If the prescription label required in subparagraph (A) of this paragraph is printed in a type size smaller than ten-point Times Roman, the pharmacy shall provide the patient written information containing the information as specified in subparagraph (A) of this paragraph in an easily readable font size comparable to but no smaller than ten-point Times Roman.

(C) The label is not required to include the initials or identification code of the dispensing pharmacist as specified in subparagraph (A) of this paragraph if the identity of the dispensing pharmacist is recorded in the pharmacy's data processing system. The record of the identity of the dispensing pharmacist shall not be altered in the pharmacy's data processing system.

(D) The dispensing container is not required to bear the label as specified in subparagraph (A) of this paragraph if:

(i) (No change.)

(ii) no more than a 90-day supply [34-day supply or 100 dosage units, whichever is less,] is dispensed at one time;

(iii) - (iv) (No change.)

(v) the dispensing container bears a label that adequately:

(I) identifies the:

(-a-) - (-d-) (No change.)

(-e-) name of the prescribing practitioner or [and], if applicable, the name of the advanced practice nurse, [or] physician assistant, or pharmacist who signed the prescription drug order;

(II) [effective June 1, 2010,] if the drug is dispensed in a container other than the manufacturer's original container, specifies the date after which the prescription should not be used or beyond-use-date. Unless otherwise specified by the manufacturer, the beyond-use-date shall be one year from the date the drug is dispensed or the manufacturer's expiration date, whichever is earlier. The beyond-use-date may be placed on the prescription label or on a flag label attached to the bottle. A beyond-use-date is not required on the label of a prescription dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication; and

(III) (No change.)

(8) (No change.)

(d) (No change.)

(e) Library. A reference library shall be maintained which includes the following in hard-copy or electronic format:

(1) (No change.)

(2) at least one current or updated reference from each of the following categories:

(A) a patient prescription drug information reference text or leaflets which are designed for the patient and must be available to the patient; [patient information:]

~~[(i) United States Pharmacopeia Dispensing Information, Volume H (Advice to the Patient); or]~~

~~[(ii) a reference text or information leaflets which provide patient information;]~~

(B) [drug interactions:] a reference text on drug interactions[, such as Drug Interaction Facts]. A separate reference is not required if other references maintained by the pharmacy contain drug interaction information including information needed to determine severity or significance of the interaction and appropriate recommendations or actions to be taken;

(C) a general information reference text, such as:

(i) (No change.)

~~[(ii) United States Pharmacopeia Dispensing Information Volume I (Drug Information for the Healthcare Provider);]~~

~~(ii) [(iii)] Clinical Pharmacology;~~

~~(iii) [(iv)] American Hospital Formulary Service with current supplements; or~~

~~(iv) [(v)] Remington's Pharmaceutical Sciences; and~~

(3) (No change.)

(f) (No change.)

(g) Prepackaging of drugs.

(1) (No change.)

(2) The label of a prepackaged unit shall indicate:

(A) - (B) (No change.)

(C) facility's beyond use date [expiration date]; and

(D) (No change.)

(3) Records of prepackaging shall be maintained to show:

(A) - (D) (No change.)

(E) manufacturer's expiration date;

(F) - (J) (No change.)

(4) (No change.)

(h) Customized patient medication packages.

(1) (No change.)

~~[(2) Definition: A patient med-pak is a package prepared by a pharmacist for a specific patient comprising a series of containers and containing two or more prescribed solid oral dosage forms. The patient med-pak is so designed or each container is so labeled as to indicate the day and time, or period of time, that the contents within each container are to be taken.]~~

~~(2) [(3)] Label.~~

(A) The patient med-pak shall bear a label stating:

(i) the name of the patient;

(ii) the unique identification number for the patient med-pak itself and a separate unique identification number for each of the prescription drug orders for each of the drug products contained therein;

(iii) the name, strength, physical description or identification, and total quantity of each drug product contained therein;

(iv) the directions for use and cautionary statements, if any, contained in the prescription drug order for each drug product contained therein;

(v) if applicable, a warning of the potential harmful effect of combining any form of alcoholic beverage with any drug product contained therein;

(vi) any storage instructions or cautionary statements required by the official compendia;

(vii) the name of the prescriber of each drug product;

(viii) the name, address, and telephone number of the pharmacy;

(ix) the initials or an identification code of the dispensing pharmacist;

(x) the date after which the prescription should not be used or beyond-use-date. Unless otherwise specified by the manufacturer, the beyond-use-date shall be one year from the date the med-pak is dispensed or the earliest manufacturer's expiration date for a product contained in the med-pak if it is less than one-year from the date dispensed. The beyond-use-date may be placed on the prescription label or on a flag label attached to the bottle. A beyond-use-date is not required on the label of a prescription dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication; and

(xi) either on the prescription label or the written information accompanying the prescription, the statement "Do not flush unused medications or pour down a sink or drain." A drug product on a list developed by the Federal Food and Drug Administration of medicines recommended for disposal by flushing is not required to bear this statement.

(xii) any other information, statements, or warnings required for any of the drug products contained therein.

(B) If the patient med-pak allows for the removal or separation of the intact containers therefrom, each individual container shall bear a label identifying each of the drug product contained therein.

(C) The dispensing container is not required to bear the label as specified in subparagraph (A) of this paragraph if:

(i) the drug is prescribed for administration to an ultimate user who is institutionalized in a licensed health care institution (e.g., nursing home, hospice, hospital);

(ii) no more than a 90-day supply [~~34-day supply or 100 dosage units, whichever is less,~~] is dispensed at one time;

(iii) the drug is not in the possession of the ultimate user prior to administration;

(iv) the pharmacist-in-charge has determined that the institution:

(I) maintains medication administration records which include adequate directions for use for the drug(s) prescribed;

(II) maintains records of ordering, receipt, and administration of the drug(s); and

(III) provides for appropriate safeguards for the control and storage of the drug(s); and

(v) the dispensing container bears a label that adequately:

(I) identifies the:

(-a-) pharmacy by name and address;

(-b-) name of the patient; and

(-c-) name and strength of each drug product

dispensed;

(-d-) name of the patient; and

(-e-) name of the prescribing practitioner of each drug product, or the pharmacist [~~and if applicable, the name of the advanced practice nurse or physician assistant~~] who signed the prescription drug order;

(II) the date after which the prescription should not be used or beyond-use-date. Unless otherwise specified by the manufacturer, the beyond-use-date shall be one year from the date the med-pak is dispensed or the earliest manufacturer's expiration date for a product contained in the med-pak if it is less than one-year from the date dispensed. The beyond-use-date may be placed on the prescription label or on a flag label attached to the bottle. A beyond-use-date is not required on the label of a prescription dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication; and

(III) for each drug product sets forth the directions for use and cautionary statements, if any, contained on the prescription drug order or required by law.

(3) [(4)] Labeling. The patient med-pak shall be accompanied by a patient package insert, in the event that any drug contained therein is required to be dispensed with such insert as accompanying labeling. Alternatively, such required information may be incorporated into a single, overall educational insert provided by the pharmacist for the total patient med-pak.

(4) [(5)] Packaging. In the absence of more stringent packaging requirements for any of the drug products contained therein, each container of the patient med-pak shall comply with official packaging standards. Each container shall be either not reclosable or so designed as to show evidence of having been opened.

(5) [(6)] Guidelines. It is the responsibility of the dispensing pharmacist when preparing a patient med-pak, to take into account any applicable compendial requirements or guidelines and the physical and chemical compatibility of the dosage forms placed within each

container, as well as any therapeutic incompatibilities that may attend the simultaneous administration of the drugs.

(6) [(7)] Recordkeeping. In addition to any individual prescription filing requirements, a record of each patient med-pak shall be made and filed. Each record shall contain, as a minimum:

(A) the name and address of the patient;

(B) the unique identification number for the patient med-pak itself and a separate unique identification number for each of the prescription drug orders for each of the drug products contained therein;

(C) the name of the manufacturer or distributor and lot number for each drug product contained therein;

(D) information identifying or describing the design, characteristics, or specifications of the patient med-pak sufficient to allow subsequent preparation of an identical patient med-pak for the patient;

(E) the date of preparation of the patient med-pak and the beyond-use date that was assigned;

(F) any special labeling instructions; and

(G) the initials or an identification code of the dispensing pharmacist.

(7) [(8)] The patient med-pak label is not required to include the initials or identification code of the dispensing pharmacist as specified in paragraph (2)[(3)](A) of this subsection if the identity of the dispensing pharmacist is recorded in the pharmacy's data processing system. The record of the identity of the dispensing pharmacist shall not be altered in the pharmacy's data processing system.

(i) Automated devices and systems.

(1) Automated compounding or counting devices. If a pharmacy uses automated compounding or counting devices:

(A) (No change.)

(B) the devices may be loaded with bulk or unlabeled drugs only by a pharmacist or by pharmacy technicians or pharmacy technician trainees under the direction and direct supervision of a pharmacist;

(C) (No change.)

(D) records of loading bulk or unlabeled drugs into an automated compounding or counting device shall be maintained to show:

(i) - (iii) (No change.)

(iv) manufacturer's expiration date;

(v) - (vii) (No change.)

(E) the automated compounding or counting device shall not be used until a pharmacist verifies that the system is properly loaded and affixes his or her signature to the record as specified in subparagraph (D) of this paragraph.

(2) Automated pharmacy dispensing systems.

(A) Authority to use automated pharmacy dispensing systems. A pharmacy may use an automated pharmacy dispensing system to fill prescription drug orders provided that:

(i) (No change.)

(ii) the automated pharmacy dispensing system has been tested by the pharmacy and found to dispense accurately. The

pharmacy shall make the results of such testing available to the board [Board] upon request; and

(iii) (No change.)

(B) (No change.)

(C) Policies and procedures of operation.

(i) When an automated pharmacy dispensing system is used to fill prescription drug orders, it shall be operated according to written policies and procedures of operation. The policies and procedures of operation shall ~~[establish requirements for operation of the automated pharmacy dispensing system and shall describe policies and procedures that]:~~

~~[(I)] include a description of the policies and procedures of operation;~~

~~[(I)] [(H)] provide for a pharmacist's review, approval, and accountability for the transmission of each original or new prescription drug order to the automated pharmacy dispensing system before the transmission is made;~~

~~[(II)] [(HH)] provide for access to the automated pharmacy dispensing system for stocking and retrieval of medications which is limited to licensed healthcare professionals or pharmacy technicians acting under the supervision of a pharmacist;~~

~~[(III)] [(IV)] require prior to use, that a pharmacist checks, verifies, and documents that the automated pharmacy dispensing system has been accurately filled each time the system is stocked;~~

~~[(IV)] [(V)] provide for an accountability record to be maintained which documents all transactions relative to stocking and removing medications from the automated pharmacy dispensing system;~~

~~[(V)] [(VH)] require a prospective drug regimen review is conducted as specified in subsection (c)(2) of this section; and~~

~~[(VI)] [(VH)] establish and make provisions for documentation of a preventative maintenance program for the automated pharmacy dispensing system.~~

(ii) (No change.)

(D) Recovery Plan. A pharmacy which uses an automated pharmacy dispensing system to fill prescription drug orders shall maintain a written plan for recovery from a disaster or any other situation which interrupts the ability of the automated pharmacy dispensing system to provide services necessary for the operation of the pharmacy. The written plan for recovery shall include:

(i) (No change.)

(ii) procedures for response when an automated pharmacy dispensing system is experiencing downtime; and

(iii) procedures for the maintenance and testing of the written plan for recovery; and

~~[(iv)] procedures for notification of the Board, each patient of the pharmacy, and other appropriate agencies whenever an automated pharmacy dispensing system experiences downtime for more than two days of operation or a period of time which significantly limits the pharmacy's ability to provide pharmacy services.]~~

(E) ~~[(3)]~~ Final check of prescriptions dispensed using an automated pharmacy dispensing system. For the purpose of §291.32(c)(2)(D)~~[(b)(2)]~~ of this title (relating to Personnel), a pharmacist must perform the final check of all prescriptions prior to delivery

to the patient to ensure that the prescription is dispensed accurately as prescribed.

~~[(I)] [(A)]~~ This final check shall be considered accomplished if:

~~[(I)] [(i)]~~ a check of the final product is conducted by a pharmacist after the automated pharmacy dispensing system has completed the prescription and prior to delivery to the patient; or

~~[(II)] [(ii)]~~ the following checks are conducted by a pharmacist:

~~[(a-)] [(H)]~~ if the automated pharmacy dispensing system contains bulk stock drugs, a pharmacist verifies that those drugs have been accurately stocked as specified in subparagraph (C)(i)(III) of this paragraph ~~[paragraph (2)(C)(i)(IV) of this subsection]; and~~

~~[(b-)] [(H)]~~ a pharmacist checks the accuracy of the data entry of each original or new prescription drug order entered into the automated pharmacy dispensing system.

~~[(ii)] [(B)]~~ If the final check is accomplished as specified in clause (i)(II) of this subparagraph ~~[subparagraph (A)(ii) of this paragraph]~~, the following additional requirements must be met.

~~[(I)] [(i)]~~ The dispensing process must be fully automated from the time the pharmacist releases the prescription to the automated pharmacy dispensing system until a completed, labeled prescription ready for delivery to the patient is produced.

~~[(II)] [(ii)]~~ The pharmacy has conducted initial testing and has a continuous quality assurance program which documents that the automated pharmacy dispensing system dispenses accurately as specified in subparagraphs (A) and (B) of this paragraph ~~[paragraph (2)(A) and (B) of this subsection].~~

~~[(III)] [(iii)]~~ The automated pharmacy dispensing system documents and maintains:

~~[(a-)] [(H)]~~ the name(s), initials, or identification code(s) of each pharmacist responsible for the checks outlined in clause (i)(II) of this subparagraph ~~[subparagraph (A)(ii) of this paragraph]; and~~

~~[(b-)] [(H)]~~ the name(s), initials, or identification code(s) and specific activity(ies) of each pharmacist, ~~[or] pharmacy technician, or pharmacy technician trainee~~ who performs any other portion of the dispensing process.

~~[(IV)] [(iv)]~~ The pharmacy establishes mechanisms and procedures to test the accuracy of the automated pharmacy dispensing system at least every month rather than every six months as specified in subparagraph (B) of this paragraph ~~[paragraph (2)(B) of this subsection].~~

(3) [(4)] Automated checking device.

~~[(A)]~~ For the purpose of this subsection, an automated checking device is a fully automated device which confirms, after dispensing but prior to delivery to the patient, that the correct drug and strength has been labeled with the correct label for the correct patient.]

(A) [(B)] For the purpose of §291.32(c)(2)(D)~~[(b)(2)]~~ of this title, the final check of a dispensed prescription shall be considered accomplished using an automated checking device provided:

(i) a check of the final product is conducted by a pharmacist prior to delivery to the patient or the following checks are performed by a pharmacist:

(I) the prepackaged drug used to fill the order is checked by a pharmacist who verifies that the drug is labeled and packaged accurately; and

(II) a pharmacist checks the accuracy of each original or new prescription drug order.

(ii) the prescription is dispensed, labeled, and made ready for delivery to the patient in compliance with Class A (Community) Pharmacy rules; and

(iii) prior to delivery to the patient:

(I) the automated checking device confirms that the correct drug and strength has been labeled with the correct label for the correct patient; and

(II) a pharmacist performs all other duties required to ensure that the prescription has been dispensed safely and accurately as prescribed.

(B) [(C)] If the final check is accomplished as specified in subparagraph (A) [(B)] of this paragraph, the following additional requirements must be met.

(i) The pharmacy has conducted initial testing of the automated checking device and has a continuous quality assurance program which documents that the automated checking device accurately confirms that the correct drug and strength has been labeled with the correct label for the correct patient.

(ii) The pharmacy documents and maintains:

(I) the name(s), initials, or identification code(s) of each pharmacist responsible for the checks outlined in subparagraph (A) [(B)] (i) of this paragraph; and

(II) the name(s) initials, or identification code(s) and specific activity(ies) of each pharmacist or pharmacy technician who perform any other portion of the dispensing process.

(iii) The pharmacy establishes mechanisms and procedures to test the accuracy of the automated checking device at least monthly.

(4) [(5)] Automated storage and distribution device. A pharmacy may use an automated storage and distribution device to deliver a previously verified prescription to a patient or patient's agent when the pharmacy is open or when the pharmacy is closed as specified in subsection (b)(3)(B)(iii) of this section, provided:

(A) the device is used to deliver refills of prescription drug orders and shall not be used to deliver new prescriptions as defined by §291.31(26) of this title (relating to Definitions);

(B) the automated storage and distribution device may not be used to deliver a controlled substance;

(C) drugs stored in the automated storage and distribution device are stored at proper temperatures;

(D) the patient or patient's agent is given the option to use the system;

(E) the patient or patient's agent has access to a pharmacist for questions regarding the prescription at the pharmacy where the automated storage and distribution device is located, by a telephone available at the pharmacy that connects directly to another pharmacy, or by a telephone available at the pharmacy and a posted telephone number to reach another pharmacy;

(F) the pharmacist-in-charge is responsible for the supervision of the operation of the system;

(G) the automated storage and distribution device has been tested by the pharmacy and found to dispense prescriptions accurately.

The pharmacy shall make the results of such testing available to the board upon request;

(H) the automated storage and distribution device may be loaded with previously verified prescriptions only by a pharmacist or by pharmacy technicians or pharmacy technician trainees under the direction and direct supervision of a pharmacist;

(I) the pharmacy will make the automated storage and distribution device available for inspection by the board;

(J) the automated storage and distribution device is located within the pharmacy building whereby pharmacy staff has access to the device from within the prescription department and patients have access to the device from outside the prescription department. The device may not be located on an outside wall of the pharmacy and may not be accessible from a drive-thru;

(K) the automated storage and distribution device is secure from access and removal of prescription drug orders by unauthorized individuals;

(L) the automated storage and distribution device has adequate security system to prevent unauthorized access and to maintain patient confidentiality; and

(M) the automated storage and distribution device records a digital image of the individual accessing the device to pick-up a prescription and such record is maintained by the pharmacy for two years.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300857

Gay Dodson, R.Ph.

Executive Director/Secretary

Texas State Board of Pharmacy

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 305-8028



22 TAC §291.34

The Texas State Board of Pharmacy proposes amendments to §291.34 concerning Records. The amendments, if adopted, clarify and update the section to be consistent with other sections of this title and DPS and DEA laws/rules; require documentation of a consultation with a prescriber regarding a prescription; add rules regarding auto-refill programs; and update the rules regarding prescription transfers including no longer allowing interns to transfer prescriptions and specifying that the transfer must be confirmed by each pharmacist.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Dodson has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the rule will be to clarify and update the Class A rules regarding the records of a pharmacy. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with this section.

Comments on the proposed amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-8008. Comments must be received by 5:00 p.m., April 30, 2013.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§291.34. Records.

(a) Maintenance of records.

(1) Every inventory or other record required to be kept under the provisions of Subchapter B of this chapter (relating to [§291.31 of this title (relating to Definitions), §291.32 of this title (relating to Personnel), §291.33 of this title (relating to Operational Standards), §291.34 of this title (relating to Records), and §291.35 of this title (relating to Official Prescription Requirements), contained in] Community Pharmacy (Class A)) shall be:

(A) - (B) (No change.)

(2) - (3) (No change.)

(4) Records, except when specifically required to be maintained in original or hard copy [hard-copy] form, may be maintained in an alternative data retention system, such as a data processing system or direct imaging system provided:

(A) - (B) (No change.)

(b) Prescriptions.

(1) (No change.)

(2) Written prescription drug orders.

(A) Practitioner's signature.

(i) Dangerous drug prescriptions. Written [Except as noted in clause (ii) of this subparagraph, written] prescription drug orders shall be:

(I) (No change.)

(II) electronically signed by the practitioner using a system that [which] electronically replicates the practitioner's manual signature on the written prescription, provided:

(-a-) - (-b-) (No change.)

(ii) Controlled substance prescriptions. Prescription drug orders for Schedule II, III, IV, or V controlled substances shall be manually signed by the practitioner. Prescription drug orders for Schedule II controlled substances shall be issued on an official prescription form as required by the Texas Controlled Substances Act, §481.075[, and be manually signed by the practitioner].

(iii) Other provisions for a practitioner's signature.

(I) A practitioner may sign a prescription drug order in the same manner as he would sign a check or legal document, e.g., J.H. Smith or John H. Smith.

(II) [(+)] Rubber stamped or otherwise reproduced signatures may not be used except as authorized in clause (i) of this subparagraph.

(III) [(+)] The prescription drug order may not be signed by a practitioner's agent but may be prepared by an agent for the signature of a practitioner. However, the prescribing practitioner is responsible in case the prescription drug order does not conform in all essential respects to the law and regulations.

(B) Prescription drug orders written by practitioners in another state.

(i) (No change.)

(ii) Controlled substance prescription drug orders.

(I) A pharmacist may dispense prescription drug order for controlled substances in Schedule II issued by a practitioner in another state provided:

(-a-) - (-b-) (No change.)

(-c-) the prescription drug order is not dispensed after the end of the twenty-first [seventh] day after the date on which the prescription is issued.

(II) A pharmacist may dispense prescription drug orders for controlled substances in Schedule III, IV, or V issued by a physician, dentist, veterinarian, or podiatrist in another state provided:

(-a-) the prescription drug order is a [written, oral, or telephonically or electronically communicated prescription, as allowed by the DEA] issued by a person practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, who has a current federal DEA registration number, and who may legally prescribe Schedule III, IV, or V controlled substances in such other state;

(-b-) - (-c-) (No change.)

(C) (No change.)

(D) Prescription drug orders carried out or signed by an advanced practice nurse, physician assistant, or pharmacist.

(i) A pharmacist may dispense a prescription drug order that [which] is:

(I) - (II) (No change.)

(ii) (No change.)

(E) (No change.)

(3) (No change.)

(4) Electronic prescription drug orders. [For the purpose of this subsection, prescription drug orders shall be considered the same as verbal prescription drug orders.]

(A) Dangerous drugs.

(i) An electronic prescription drug order for a dangerous drug may be transmitted by a practitioner or a practitioner's designated agent:

(I) [(+)] directly to a pharmacy; or

(II) [(+)] through the use of a data communication device provided:

(-a-) [(+)] the confidential prescription information is not altered during transmission; and

(-b-) [(+)] confidential patient information is not accessed or maintained by the operator of the data communication device other than for legal purposes under federal and state law.

(ii) [(+)] A practitioner shall designate in writing the name of each agent authorized by the practitioner to electronically transmit prescriptions for the practitioner. The practitioner shall main-

tain at the practitioner's usual place of business a list of the designated agents. The practitioner shall provide a pharmacist with a copy of the practitioner's written authorization for a specific agent on the pharmacist's request.

(B) ~~[(C)]~~ Controlled substances. A pharmacist may only dispense an electronic prescription drug order for a Schedule II, III, IV, or V controlled substance in compliance with the federal and state laws and the rules of the Drug Enforcement Administration outlined in Part 1300 of the Code of Federal Regulations and Texas Department of Public Safety.

(C) ~~[(D)]~~ Prescriptions issued by a practitioner licensed in the Dominion of Canada or the United States. A pharmacist may not dispense an electronic prescription drug order for a dangerous drug or controlled substance issued by a practitioner licensed in the Dominion of Canada or the United Mexican States unless the practitioner is also licensed in Texas.

(5) Facsimile (Faxed) Prescriptions.

(A) A pharmacist may dispense a prescription drug order for a dangerous drug transmitted to the pharmacy by facsimile.

(B) A pharmacist may dispense a prescription drug order for a controlled substance transmitted to the pharmacy by facsimile provided the prescription is manually signed by the practitioner and not electronically signed using a system that electronically replicates the practitioner's manual signature on the prescription drug order.

(C) A pharmacist may not dispense a facsimile prescription drug order for a dangerous drug or controlled substance issued by a practitioner licensed in the Dominion of Canada or the United Mexican States unless the practitioner is also licensed in Texas.

(6) ~~[(5)]~~ Original prescription drug order records.

(A) Original prescriptions may be dispensed only in accordance with the prescriber's authorization as indicated on the original prescription drug order including clarifications to the order given to the pharmacist by the practitioner or the practitioner's agent and recorded on the prescription.

(B) Original prescriptions shall be maintained by the pharmacy in numerical order and remain legible for a period of two years from the date of filling or the date of the last refill dispensed.

(C) If an original prescription drug order is changed, such prescription order shall be invalid and of no further force and effect; if additional drugs are to be dispensed, a new prescription drug order with a new and separate number is required. However, an original prescription drug order for a dangerous drug may be changed in accordance with paragraph (10) ~~[(9)]~~ of this subsection relating to accelerated refills.

(D) Original prescriptions shall be maintained in three separate files as follows:

- (i) prescriptions for controlled substances listed in Schedule II;
- (ii) prescriptions for controlled substances listed in Schedules III-V; and
- (iii) prescriptions for dangerous drugs and nonprescription drugs.

(E) Original prescription records other than prescriptions for Schedule II controlled substances may be stored in a ~~[on microfilm, microfiche, or other]~~ system that ~~[which]~~ is capable of producing a direct image of the original prescription record, e.g., digitalized

imaging system. If original prescription records are stored in a direct imaging system, the following is applicable:

(i) the record of refills recorded on the original prescription must also be stored in this system;

(ii) the original prescription records must be maintained in numerical order and separated in three files as specified in subparagraph (D) of this paragraph; and

(iii) the pharmacy must provide immediate access to equipment necessary to render the records easily readable.

(7) ~~[(6)]~~ Prescription drug order information.

(A) All original prescriptions shall bear:

(i) name of the patient, or if such drug is for an animal, the species of such animal and the name of the owner;

(ii) address of the patient, provided, however, a prescription for a dangerous drug is not required to bear the address of the patient if such address is readily retrievable on another appropriate, uniformly maintained pharmacy record, such as medication records;

(iii) name, address and telephone number of the practitioner at the practitioner's usual place of business, legibly printed or stamped and if for a controlled substance, the ~~[address and]~~ DEA registration number of the practitioner;

(iv) name and strength of the drug prescribed;

(v) quantity prescribed numerically and if for a controlled substance:[:]

(I) numerically, followed by the number written as a word, if the prescription is written;

(II) numerically, if the prescription is electronic;
or

(III) if the prescription is communicated orally or telephonically, as transcribed by the receiving pharmacist;

(vi) directions for use;

(vii) intended use for the drug unless the practitioner determines the furnishing of this information is not in the best interest of the patient; ~~[and]~~

(viii) date of issuance;[:]

(ix) if a faxed prescription:

(I) a statement that indicates that the prescription has been faxed (e.g., Faxed to); and

(II) if transmitted by a designated agent, the full name of the designated agent;

(x) if electronically transmitted:

(I) the date the prescription drug order was electronically transmitted to the pharmacy, if different from the date of issuance of the prescription; and

(II) if transmitted by a designated agent, the full name of the designated agent; and

(xi) if issued by an advanced practice nurse or physician assistant in accordance with Subtitle B, Chapter 157, Occupations Code the:

(I) name, address, telephone number, and if the prescription is for a controlled substance, the DEA number of the supervising practitioner; and

(II) address and telephone number of the clinic where the prescription drug order was carried out or signed.

{(B) All original electronic prescription drug orders shall bear:}

{(i) name of the patient, if such drug is for an animal, the species of such animal, and the name of the owner;}

{(ii) address of the patient, provided, however, a prescription for a dangerous drug is not required to bear the address of the patient if such address is readily retrievable on another appropriate, uniformly maintained pharmacy record, such as medication records;}

{(iii) name, and if for a controlled substance, the address and DEA registration number of the practitioner;}

{(iv) name and strength of the drug prescribed;}

{(v) quantity prescribed;}

{(vi) directions for use;}

{(vii) indications for use, unless the practitioner determines the furnishing of this information is not in the best interest of the patient;}

{(viii) date of issuance;}

{(ix) if a faxed prescription, a statement which indicates that the prescription has been faxed (e.g., Faxed to);}

{(x) telephone number of the prescribing practitioner;}

{(xi) date the prescription drug order was electronically transmitted to the pharmacy, if different from the date of issuance of the prescription; and}

{(xii) if transmitted by a designated agent, the full name of the designated agent;}

{(C) All original written prescriptions carried out or signed by an advanced practice nurse or physician assistant in accordance with Subtitle B, Chapter 157, Occupations Code, shall bear:}

{(i) name and address of the patient;}

{(ii) name, address, telephone number, and if the prescription is for a controlled substance, the DEA number of the supervising practitioner;}

{(iii) name, original signature, and if the prescription is for a controlled substance, the DEA number of the advanced practice nurse or physician assistant;}

{(iv) address and telephone number of the clinic at which the prescription drug order was carried out or signed;}

{(v) name, strength, and quantity of the drug;}

{(vi) directions for use;}

{(vii) indications for use, if appropriate;}

{(viii) date of issuance; and}

{(ix) number of refills authorized;}

(B) [(D)] At the time of dispensing, a pharmacist is responsible for documenting the following information on either the original hard copy [hard-copy] prescription or in the pharmacy's data processing system:

(i) unique identification number of the prescription drug order;

(ii) initials or identification code of the dispensing pharmacist;

(iii) initials or identification code of the pharmacy technician or pharmacy trainee performing data entry of the prescription, if applicable;

(iv) quantity dispensed, if different from the quantity prescribed;

(v) date of dispensing, if different from the date of issuance; and

(vi) brand name or manufacturer of the drug product actually dispensed, if the drug was prescribed by generic name or if a drug product other than the one prescribed was dispensed pursuant to the provisions of the Act, Chapters 562 and 563.

(8) [(7)] Refills.

(A) General information.

(i) Refills may be dispensed only in accordance with the prescriber's authorization as indicated on the original prescription drug order except as authorized in paragraph (10) [(9)] of this subsection relating to accelerated refills.

(ii) [(B)] If there are no refill instructions on the original prescription drug order (which shall be interpreted as no refills authorized) or if all refills authorized on the original prescription drug order have been dispensed, authorization from the prescribing practitioner shall be obtained prior to dispensing any refills and documented as specified in subsection (I) of this section.

(B) [(C)] Refills of prescription drug orders for dangerous drugs or nonprescription drugs.

(i) Prescription drug orders for dangerous drugs or nonprescription drugs may not be refilled after one year from the date of issuance of the original prescription drug order.

(ii) If one year has expired from the date of issuance of an original prescription drug order for a dangerous drug or nonprescription drug, authorization shall be obtained from the prescribing practitioner prior to dispensing any additional quantities of the drug.

(C) [(D)] Refills of prescription drug orders for Schedules III-V controlled substances.

(i) Prescription drug orders for Schedules III-V controlled substances may not be refilled more than five times or after six months from the date of issuance of the original prescription drug order, whichever occurs first.

(ii) If a prescription drug order for a Schedule III, IV, or V controlled substance has been refilled a total of five times or if six months have expired from the date of issuance of the original prescription drug order, whichever occurs first, a new and separate prescription drug order shall be obtained from the prescribing practitioner prior to dispensing any additional quantities of controlled substances.

(D) [(E)] Pharmacist unable to contact prescribing practitioner. If a pharmacist is unable to contact the prescribing practitioner after a reasonable effort, a pharmacist may exercise his professional judgment in refilling a prescription drug order for a drug, other than a controlled substance listed in Schedule II, without the authorization of the prescribing practitioner, provided:

(i) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;

(ii) the quantity of prescription drug dispensed does not exceed a 72-hour supply;

(iii) the pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being provided without such authorization and that authorization of the practitioner is required for future refills;

(iv) the pharmacist informs the practitioner of the emergency refill at the earliest reasonable time;

(v) the pharmacist maintains a record of the emergency refill containing the information required to be maintained on a prescription as specified in this subsection;

(vi) the pharmacist affixes a label to the dispensing container as specified in §291.33(c)(7) of this title; and

(vii) if the prescription was initially filled at another pharmacy, the pharmacist may exercise his professional judgment in refilling the prescription provided:

(I) the patient has the prescription container, label, receipt or other documentation from the other pharmacy that [which] contains the essential information;

(II) after a reasonable effort, the pharmacist is unable to contact the other pharmacy to transfer the remaining prescription refills or there are no refills remaining on the prescription;

(III) the pharmacist, in his professional judgment, determines that such a request for an emergency refill is appropriate and meets the requirements of clause (i) of this subparagraph; and

(IV) the pharmacist complies with the requirements of clauses (ii) - (vi) of this subparagraph.

(E) ~~[(F)]~~ Natural or manmade disasters. If a natural or manmade disaster has occurred that prohibits the pharmacist from being able to contact the practitioner, a pharmacist may exercise his professional judgment in refilling a prescription drug order for a drug, other than a controlled substance listed in Schedule II, without the authorization of the prescribing practitioner, provided:

(i) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;

(ii) the quantity of prescription drug dispensed does not exceed a 30-day supply;

(iii) the governor has declared a state of disaster;

(iv) the board, through the executive director, has notified pharmacies that pharmacists may dispense up to a 30-day supply of prescription drugs;

(v) the pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being provided without such authorization and that authorization of the practitioner is required for future refills;

(vi) the pharmacist informs the practitioner of the emergency refill at the earliest reasonable time;

(vii) the pharmacist maintains a record of the emergency refill containing the information required to be maintained on a prescription as specified in this subsection;

(viii) the pharmacist affixes a label to the dispensing container as specified in §291.33(c)(7) of this title; and

(ix) if the prescription was initially filled at another pharmacy, the pharmacist may exercise his professional judgment in refilling the prescription provided:

(I) the patient has the prescription container, label, receipt or other documentation from the other pharmacy that [which] contains the essential information;

(II) after a reasonable effort, the pharmacist is unable to contact the other pharmacy to transfer the remaining prescription refills or there are no refills remaining on the prescription;

(III) the pharmacist, in his professional judgment, determines that such a request for an emergency refill is appropriate and meets the requirements of clause (i) of this subparagraph; and

(IV) the pharmacist complies with the requirements of clauses (ii) - (viii) of this subparagraph.

(F) Auto-Refill Programs. A pharmacy may use a program that automatically refills prescriptions that have existing refills available in order to improve patient compliance with and adherence to prescribed medication therapy. The following is applicable in order to enroll patients into an auto-refill program.

(i) Notice of the availability of an auto-refill program shall be given to patients, and patients must affirmatively indicate that they wish to enroll in such a program and the pharmacy shall document such indication.

(ii) Patients shall have the option to withdraw from such a program at any time.

(iii) Prescription refills for controlled substances may not be dispensed by an auto-refill program.

(iv) As is required for all prescriptions, a drug regimen review shall be completed on all prescriptions filled as a result of the auto-refill program. Special attention shall be noted for drug regimen review warnings of duplication of therapy and all such conflicts shall be resolved with the prescribing practitioner prior to refilling the prescription.

(9) ~~[(8)]~~ Records Relating to Dispensing Errors.

~~[(A)]~~ For purposes of this subsection, a dispensing error is defined as an action committed by a pharmacist or other pharmacy personnel that causes the patient or patient's agent to take possession of a dispensed prescription drug and an individual subsequently discovers that the patient has received an incorrect drug product, which includes incorrect strength, incorrect dosage form, and/or incorrect directions for use.

~~[(B)]~~ If a dispensing error occurs, the following is applicable.

(A) ~~[(i)]~~ Original prescription drug orders:

(i) ~~[(4)]~~ shall not be destroyed and must be maintained in accordance with subsection (a) of this section; and

(ii) ~~[(H)]~~ shall not be altered. Altering includes placing a label or any other item over any of the information on the prescription drug order (e.g., a dispensing tag or label that is affixed to back of a prescription drug order must not be affixed on top of another dispensing tag or label in such a manner as to obliterate the information relating to the error).

(B) ~~[(i)]~~ Prescription drug order records maintained in a data processing system:

(i) ~~[(H)]~~ shall not be deleted and must be maintained in accordance with subsection (a) of this section;

(ii) ~~[(H)]~~ may be changed only in compliance with subsection (e)(2)(B) of this section; and

~~(iii)~~ ~~[(III)]~~ if the error involved incorrect data entry into the pharmacy's data processing system, this record must be either voided or cancelled in the data processing system, so that the incorrectly entered prescription drug order may not be dispensed, or the data processing system must be capable of maintaining an audit trail showing any changes made to the data in the system.

~~(10)~~ ~~[(9)]~~ Accelerated refills. In accordance with §562.0545 of the Act, a pharmacist may dispense up to a 90-day supply of a dangerous drug pursuant to a valid prescription that specifies the dispensing of a lesser amount followed by periodic refills of that amount if:

(A) the total quantity of dosage units dispensed does not exceed the total quantity of dosage units authorized by the prescriber on the original prescription, including refills;

(B) the patient consents to the dispensing of up to a 90-day supply and the physician has been notified electronically or by telephone;

(C) the physician has not specified on the prescription that dispensing the prescription in an initial amount followed by periodic refills is medically necessary;

(D) the dangerous drug is not a psychotropic drug used to treat mental or psychiatric conditions; and

(E) the patient is at least 18 years of age.

(c) Patient medication records.

(1) (No change.)

(2) The patient medication record system shall provide for the immediate retrieval of information for the previous 12 months ~~that [which]~~ is necessary for the dispensing pharmacist to conduct a prospective drug regimen review at the time a prescription drug order is presented for dispensing.

(3) - (5) (No change.)

(d) Prescription drug order records maintained in a manual system.

(1) Original prescriptions shall be maintained in three files as specified in subsection ~~(b)(6)(D)~~ ~~[(b)(5)(D)]~~ of this section.

(2) Refills.

(A) Each time a prescription drug order is refilled, a record of such refill shall be made:

(i) (No change.)

(ii) on another appropriate, uniformly maintained, readily retrievable record, such as medication records, ~~that [which]~~ indicates by patient name the following information:

~~(I) - (VII)~~ (No change.)

(B) (No change.)

(3) Authorization of refills. Practitioner authorization for additional refills of a prescription drug order shall be noted on the original prescription, in addition to the documentation of dispensing the refill ~~as specified in subsection (l) of this section.~~

~~[(4) Transfer of prescription drug order information. For the purpose of refill or initial dispensing, the transfer of original prescription drug order information is permissible between pharmacies, subject to the following requirements:]~~

~~[(A) the transfer of original prescription drug order information for controlled substances listed in Schedule III, IV, or V is permissible between pharmacies on a one-time basis;]~~

~~[(B) the transfer of original prescription drug order information for dangerous drugs is permissible between pharmacies without limitation up to the number of originally authorized refills;]~~

~~[(C) the transfer is communicated directly between pharmacists and/or pharmacist interns;]~~

~~[(D) both the original and the transferred prescription drug order are maintained for a period of two years from the date of last refill;]~~

~~[(E) the pharmacist or pharmacist intern transferring the prescription drug order information shall:]~~

~~[(i) write the word "void" on the face of the invalidated prescription drug order; and]~~

~~[(ii) record on the reverse of the invalidated prescription drug order the following information:]~~

~~[(I) the name, address, and if a controlled substance, the DEA registration number of the pharmacy to which such prescription drug order is transferred;]~~

~~[(II) the name of the pharmacist or pharmacist intern receiving the prescription drug order information;]~~

~~[(III) the name of the pharmacist or pharmacist intern transferring the prescription drug order information; and]~~

~~[(IV) the date of the transfer;]~~

~~[(F) the pharmacist or pharmacist intern receiving the transferred prescription drug order information shall:]~~

~~[(i) write the word "transfer" on the face of the transferred prescription drug order; and]~~

~~[(ii) record on the transferred prescription drug order the following information:]~~

~~[(I) original date of issuance and date of dispensing or receipt, if different from date of issuance;]~~

~~[(II) original prescription number and the number of refills authorized on the original prescription drug order;]~~

~~[(III) number of valid refills remaining and the date of last refill, if applicable;]~~

~~[(IV) name, address, and if a controlled substance, the DEA registration number of the pharmacy from which such prescription information is transferred; and]~~

~~[(V) name of the pharmacist or pharmacist intern transferring the prescription drug order information.]~~

~~[(5) A pharmacist or pharmacist intern may not refuse to transfer original prescription information to another pharmacist or pharmacist intern who is acting on behalf of a patient and who is making a request for this information as specified in paragraph (4) of this subsection.]~~

~~(4) [(6)] Each time a modification, change, or manipulation is made to a record of dispensing, documentation of such change shall be recorded on the back of the prescription or on another appropriate, uniformly maintained, readily retrievable record, such as medication records. The documentation of any modification, change, or manipulation to a record of dispensing shall include the identification of the individual responsible for the alteration.~~

(e) Prescription drug order records maintained in a data processing system.

(1) General requirements for records maintained in a data processing system.

(A) Compliance with data processing system requirements. If a Class A ~~[(community)]~~ pharmacy's data processing system is not in compliance with this subsection, the pharmacy must maintain a manual recordkeeping system as specified in subsection (d) of this section.

(B) Original prescriptions. Original prescriptions shall be maintained in three files as specified in subsection ~~(b)(6)(D)~~ [(b)(5)(D)] of this section.

(C) Requirements for backup systems.

(i) (No change.)

(ii) Data processing systems shall have a workable (electronic) data retention system that ~~[which]~~ can produce an audit trail of drug usage for the preceding two years as specified in paragraph (2)(H) of this subsection.

(D) Change or discontinuance of a data processing system.

(i) Records of dispensing. A pharmacy that changes or discontinues use of a data processing system must:

(I) (No change.)

(II) purge the records of dispensing to a printout that ~~[which]~~ contains the same information required on the daily printout as specified in paragraph (2)(C) of this subsection. The information on this hard copy ~~[hard-copy]~~ printout shall be sorted and printed by prescription number and list each dispensing for this prescription chronologically.

(ii) Other records. A pharmacy that changes or discontinues use of a data processing system must:

(I) (No change.)

(II) purge the records to a printout that ~~[which]~~ contains all of the information required on the original document.

(iii) (No change.)

(E) (No change.)

(2) Records of dispensing.

(A) (No change.)

(B) Each time a modification, change or manipulation is made to a record of dispensing, documentation of such change shall be recorded in the data processing system. The documentation of any modification, change, or manipulation to a record of dispensing shall include the identification of the individual responsible for the alteration. Should the data processing system not be able to record a modification, change, or manipulation to a record of dispensing, the information should be clearly documented on the hard copy ~~[hard-copy]~~ prescription.

(C) The data processing system shall have the capacity to produce a daily hard copy ~~[hard-copy]~~ printout of all original prescriptions dispensed and refilled. This hard copy ~~[hard-copy]~~ printout shall contain the following information:

(i) - (viii) (No change.)

(ix) if not immediately retrievable via computer [CRT] display, the following shall also be included on the hard copy ~~[hard-copy]~~ printout:

(I) - (VI) (No change.)

(x) (No change.)

(D) The daily hard copy ~~[hard-copy]~~ printout shall be produced within 72 hours of the date on which the prescription drug orders were dispensed and shall be maintained in a separate file at the pharmacy. Records of controlled substances shall be readily retrievable from records of noncontrolled substances.

(E) Each individual pharmacist who dispenses or refills a prescription drug order shall verify that the data indicated on the daily hard copy ~~[hard-copy]~~ printout is correct, by dating and signing such document in the same manner as signing a check or legal document (e.g., J.H. Smith, or John H. Smith) within seven days from the date of dispensing.

(F) In lieu of the printout described in subparagraph (C) of this paragraph, the pharmacy shall maintain a log book in which each individual pharmacist using the data processing system shall sign a statement each day, attesting to the fact that the information entered into the data processing system that day has been reviewed by him or her and is correct as entered. Such log book shall be maintained at the pharmacy employing such a system for a period of two years after the date of dispensing; provided, however, that the data processing system can produce the hard copy ~~[hard-copy]~~ printout on demand by an authorized agent of the Texas State Board of Pharmacy. If no printer is available on site, the hard copy ~~[hard-copy]~~ printout shall be available within 72 hours with a certification by the individual providing the printout, that ~~[which]~~ states that the printout is true and correct as of the date of entry and such information has not been altered, amended, or modified.

(G) (No change.)

(H) The data processing system shall be capable of producing a hard copy ~~[hard-copy]~~ printout of an audit trail for all dispensings (original and refill) of any specified strength and dosage form of a drug (by either brand or generic name or both) during a specified time period.

(i) - (ii) (No change.)

(I) (No change.)

(J) The data processing system shall provide on-line retrieval (via computer [CRT] display or hard copy ~~[hard-copy]~~ printout) of the information set out in subparagraph (C) of this paragraph of:

(i) - (ii) (No change.)

(K) In the event that a pharmacy that ~~[which]~~ uses a data processing system experiences system downtime, the following is applicable:

(i) - (ii) (No change.)

(3) Authorization of refills. Practitioner authorization for additional refills of a prescription drug order shall be noted as follows:

(A) on the hard copy ~~[hard-copy]~~ prescription drug order;

(B) on the daily hard copy ~~[hard-copy]~~ printout; or

(C) via the computer [CRT] display.

~~[(4) Transfer of prescription drug order information. For the purpose of refill or initial dispensing, the transfer of original pre-~~

scription drug order information is permissible between pharmacies, subject to the following requirements:}]

[(A) The transfer of original prescription drug order information for controlled substances listed in Schedule III, IV, or V is permissible between pharmacies on a one-time basis only. However, pharmacies electronically sharing a real-time, on-line database may transfer up to the maximum refills permitted by law and the prescriber's authorization.}]

[(B) The transfer of original prescription drug order information for dangerous drugs is permissible between pharmacies without limitation up to the number of originally authorized refills.}]

[(C) The transfer is communicated directly between pharmacists and/or pharmacist interns orally by telephone or via facsimile or as authorized in paragraph (5) of this subsection. A transfer completed as authorized in paragraph (5) of this subsection may be initiated by a pharmacy technician or pharmacy technician trainee acting under the direct supervision of a pharmacist.}]

[(D) Both the original and the transferred prescription drug orders are maintained for a period of two years from the date of last refill.}]

[(E) The pharmacist or pharmacist intern transferring the prescription drug order information shall ensure the following occurs:}]

[(i) the prescription is voided in the data processing system; and}]

[(ii) the following information is stored with the invalidated prescription drug order in the data processing system:}]

[(I) the name, address, and if a controlled substance, the DEA registration number of the pharmacy to which such prescription is transferred;}]

[(II) the name of the pharmacist or pharmacist intern receiving the prescription drug order information;}]

[(III) the name of the pharmacist or pharmacist intern transferring the prescription drug order information; and}]

[(IV) the date of the transfer.}]

[(F) The pharmacist or pharmacist intern receiving the transferred prescription drug order information shall ensure the following occurs:}]

[(i) the prescription record indicates the prescription was a transfer; and}]

[(ii) the following information is stored with the prescription drug order in the data processing system:}]

[(I) original date of issuance and date of dispensing or receipt, if different from date of issuance;}]

[(II) original prescription number and the number of refills authorized on the original prescription drug order;}]

[(III) number of valid refills remaining and the date of last refill, if applicable;}]

[(IV) name, address, and if a controlled substance, the DEA registration number of the pharmacy from which such prescription drug order information is transferred; and}]

[(V) name of the pharmacist or pharmacist intern transferring the prescription drug order information.}]

[(G) Prescription drug orders may not be transferred by non-electronic means during periods of downtime except on consultation with and authorization by a prescribing practitioner; provided however, during downtime, a hard copy of a prescription drug order may be made available for informational purposes only, to the patient, a pharmacist or pharmacist intern, and the prescription may be read to a pharmacist or pharmacist intern by telephone.}]

[(H) The original prescription drug order shall be invalidated in the data processing system for purposes of filling or refilling, but shall be maintained in the data processing system for refill history purposes.}]

[(I) If the data processing system does not have the capacity to store all the information required in subparagraphs (E) and (F) of this paragraph, the pharmacist is required to record this information on the original or transferred prescription drug order.}]

[(J) The data processing system shall have a mechanism to prohibit the transfer or refilling of controlled substance prescription drug orders which have been previously transferred.}]

[(5) Electronic transfer of prescription drug order information between pharmacies. Pharmacies electronically accessing the same prescription drug order records may electronically transfer prescription information if the following requirements are met:}]

[(A) The original prescription is voided and the following information is documented in the records of the transferring pharmacy:}]

[(i) the name, address, and if a controlled substance, the DEA registration number of the pharmacy to which such prescription is transferred;}]

[(ii) the name of the pharmacist or pharmacist intern receiving the prescription drug order information; and}]

[(iii) the date of the transfer.}]

[(B) Pharmacies not owned by the same person may electronically access the same prescription drug order records, provided the owner or chief executive officer of each pharmacy signs an agreement allowing access to such prescription drug order records.}]

[(C) An electronic transfer between pharmacies may be initiated by a pharmacy technician or pharmacy technician trainee acting under the direct supervision of a pharmacist.}]

[(6) A pharmacist or pharmacist intern may not refuse to transfer original prescription information to another pharmacist or pharmacist intern who is acting on behalf of a patient and who is making a request for this information as specified in paragraphs (4) and (5) of this subsection.}]

(f) Limitation to one type of recordkeeping system. When filing prescription drug order information a pharmacy may use only one of the two systems described in subsection (d) or (e) of this section.

(g) Transfer of prescription drug order information. For the purpose of initial or refill dispensing, the transfer of original prescription drug order information is permissible between pharmacies, subject to the following requirements.

(1) The transfer of original prescription drug order information for controlled substances listed in Schedule III, IV, or V is permissible between pharmacies on a one-time basis only. However, pharmacies electronically sharing a real-time, on-line database may transfer up to the maximum refills permitted by law and the prescriber's authorization.

(2) The transfer of original prescription drug order information for dangerous drugs is permissible between pharmacies without limitation up to the number of originally authorized refills.

(3) The transfer is communicated directly between pharmacists orally by telephone or via facsimile or as authorized in paragraph (8)(E) of this subsection. A transfer completed as authorized in paragraph (8)(E) of this subsection may be initiated by a pharmacy technician or pharmacy technician trainee acting under the direct supervision of a pharmacist.

(4) Both the original and the transferred prescription drug orders are maintained for a period of two years from the date of last refill.

(5) The pharmacist transferring the prescription drug order information shall ensure the following occurs:

(A) write the word "void" on the face of the invalidated prescription or the prescription is voided in the data processing system; and

(B) the following information is recorded on the reverse of the invalidated prescription drug order or stored with the invalidated prescription drug order in the data processing system:

(i) the name, address, and if a controlled substance, the DEA registration number of the pharmacy to which such prescription is transferred;

(ii) the name of the pharmacist receiving the prescription drug order information;

(iii) the name of the pharmacist transferring the prescription drug order information; and

(iv) the date of the transfer.

(6) The pharmacist receiving the transferred prescription drug order information shall ensure the following occurs:

(A) write the word "transfer" on the face of the prescription or the prescription record indicates the prescription was a transfer; and

(B) the following information if recorded on the prescription drug order or is stored with the prescription drug order in the data processing system:

(i) original date of issuance and date of dispensing or receipt, if different from date of issuance;

(ii) original prescription number and the number of refills authorized on the original prescription drug order;

(iii) number of valid refills remaining and the date of last refill, if applicable;

(iv) name, address, and if a controlled substance, the DEA registration number of the pharmacy from which such prescription drug order information is transferred; and

(v) name of the pharmacist transferring the prescription drug order information.

(7) Both the pharmacist transferring the prescription and the pharmacist receiving the prescription must engage in confirmation of the prescription information by such means as:

(A) the transferring pharmacist faxes the hard copy prescription to the receiving pharmacist; or

(B) the receiving pharmacist repeats the verbal information from the transferring pharmacist and the transferring pharmacist verbally confirms that the repeated information is correct.

(8) Pharmacies using a data processing system shall comply with the following:

(A) Prescription drug orders may not be transferred by non-electronic means during periods of downtime except on consultation with and authorization by a prescribing practitioner; provided however, during downtime, a hard copy of a prescription drug order may be made available for informational purposes only, to the patient, a pharmacist, and the prescription may be read to a pharmacist by telephone.

(B) The original prescription drug order shall be invalidated in the data processing system for purposes of filling or refilling, but shall be maintained in the data processing system for refill history purposes.

(C) If the data processing system does not have the capacity to store all the information required in paragraphs (5) and (6) of this subsection, the pharmacist is required to record this information on the original or transferred prescription drug order.

(D) The data processing system shall have a mechanism to prohibit the transfer or refilling of controlled substance prescription drug orders that have been previously transferred.

(E) Pharmacies electronically accessing the same prescription drug order records may electronically transfer prescription information if the following requirements are met.

(i) The original prescription is voided and the pharmacies' data processing systems shall store all the information required in paragraphs (5) and (6) of this subsection.

(ii) Pharmacies not owned by the same person may electronically access the same prescription drug order records, provided the owner, chief executive officer, or designee of each pharmacy signs an agreement allowing access to such prescription drug order records.

(iii) An electronic transfer between pharmacies may be initiated by a pharmacy technician or pharmacy technician trainee acting under the direct supervision of a pharmacist.

(9) A pharmacist may not refuse to transfer original prescription information to another pharmacist who is acting on behalf of a patient and who is making a request for this information as specified in this subsection.

(h) [(g)] Distribution of controlled substances to another registrant. A pharmacy may distribute controlled substances to a practitioner, another pharmacy, or other registrant, without being registered to distribute, under the following conditions.

(1) The registrant to whom the controlled substance is to be distributed is registered under the Controlled Substances Act to dispense that controlled substance.

(2) The total number of dosage units of controlled substances distributed by a pharmacy may not exceed 5.0% of all controlled substances dispensed and distributed by the pharmacy during the 12-month period in which the pharmacy is registered; if at any time it does exceed 5.0%, the pharmacy is required to obtain an additional registration to distribute controlled substances.

(3) If the distribution is for a Schedule III, IV, or V controlled substance, a record shall be maintained that [which] indicates:

(A) the actual date of distribution;

(B) the name, strength, and quantity of controlled substances distributed;

(C) the name, address, and DEA registration number of the distributing pharmacy; and

(D) the name, address, and DEA registration number of the pharmacy, practitioner, or other registrant to whom the controlled substances are distributed.

(4) If the distribution is for a Schedule II controlled substance, the following is applicable.

(A) The pharmacy, practitioner, or other registrant who is receiving the controlled substances shall issue Copy 1 and Copy 2 of a DEA order form (DEA 222) [~~(DEA 222C)~~] to the distributing pharmacy.

(B) The distributing pharmacy shall:

(i) complete the area on the DEA order form (DEA 222) [~~(DEA 222C)~~] titled "To Be Filled in by Supplier";

(ii) maintain Copy 1 of the DEA order form (DEA 222) [~~(DEA 222C)~~] at the pharmacy for two years; and

(iii) forward Copy 2 of the DEA order form (DEA 222) [~~(DEA 222C)~~] to the Divisional Office of the Drug Enforcement Administration.

(i) [~~(h)~~] Other records. Other records to be maintained by a pharmacy:

(1) a permanent log of the initials or identification codes that [which] will identify each pharmacist, pharmacy technician, and pharmacy technician trainee by name performing data entry of prescription information (the initials or identification code shall be unique to ensure that each individual can be identified, i.e., identical initials or identification codes shall not be used);

(2) Copy 3 of DEA order form (DEA 222) that [~~(DEA 222C)~~ which] has been properly dated, initialed, and filed, and all copies of each unaccepted or defective order form and any attached statements or other documents and/or for each order filled using the DEA Controlled Substance Ordering System (CSOS) the original signed order and all linked records for that order;

(3) a hard copy of the power of attorney to sign DEA 222 [~~(DEA 222C)~~] order forms (if applicable);

(4) suppliers' invoices of dangerous drugs and controlled substances; a pharmacist shall verify that the controlled drugs listed on the invoices were actually received by clearly recording his/her initials and the actual date of receipt of the controlled substances;

(5) suppliers' credit memos for controlled substances and dangerous drugs;

(6) a hard copy of inventories required by §291.17 of this title (relating to Inventory Requirements);

(7) hard copy [~~hard-copy~~] reports of surrender or destruction of controlled substances and/or dangerous drugs to an appropriate state or federal agency;

(8) a hard copy of the Schedule V nonprescription register book;

(9) records of distribution of controlled substances and/or dangerous drugs to other pharmacies, practitioners, or registrants; and

(10) a hard copy of any notification required by the Texas Pharmacy Act or the sections in this chapter, including, but not limited to, the following:

(A) reports of theft or significant loss of controlled substances to DEA, Department of Public Safety, and the board;

(B) notifications of a change in pharmacist-in-charge of a pharmacy; and

(C) reports of a fire or other disaster that [which] may affect the strength, purity, or labeling of drugs, medications, devices, or other materials used in the diagnosis or treatment of injury, illness, and disease.

(i) [~~(h)~~] Permission to maintain central records. Any pharmacy that uses a centralized recordkeeping system for invoices and financial data shall comply with the following procedures.

(1) Controlled substance records. Invoices and financial data for controlled substances may be maintained at a central location provided the following conditions are met.

(A) Prior to the initiation of central recordkeeping, the pharmacy submits written notification by registered or certified mail to the divisional director of the Drug Enforcement Administration as required by Title 21, Code of Federal Regulations, §1304.04(a), and submits a copy of this written notification to the Texas State Board of Pharmacy. Unless the registrant is informed by the divisional director of the Drug Enforcement Administration that permission to keep central records is denied, the pharmacy may maintain central records commencing 14 days after receipt of notification by the divisional director.

(B) The pharmacy maintains a copy of the notification required in subparagraph (A) of this paragraph.

(C) The records to be maintained at the central record location shall not include executed DEA order forms, prescription drug orders, or controlled substance inventories, that [which] shall be maintained at the pharmacy.

(2) Dangerous drug records. Invoices and financial data for dangerous drugs may be maintained at a central location.

(3) Access to records. If the records are kept on microfilm, computer media, or in any form requiring special equipment to render the records easily readable, the pharmacy shall provide access to such equipment with the records.

(4) Delivery of records. The pharmacy agrees to deliver all or any part of such records to the pharmacy location within two business days of written request of a board agent or any other authorized official.

(k) [~~(j)~~] Ownership of pharmacy records. For the purposes of these sections, a pharmacy licensed under the Act is the only entity that [which] may legally own and maintain prescription drug records.

(l) Documentation of consultation. When a pharmacist consults a prescriber as described in this section, the pharmacist shall document on the hard copy or in the pharmacy's data processing system associated with the prescription such occurrences and shall include the following information:

(1) date the prescriber was consulted;

(2) name of the person communicating the prescriber's instructions;

(3) any applicable information pertaining to the consultation; and

(4) initials or identification code of the pharmacist performing the consultation clearly recorded for the purpose of identifying

the pharmacist who performed the consultation if on the information is recorded on the hard copy prescription.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300858

Gay Dodson, R.Ph.

Executive Director/Secretary

Texas State Board of Pharmacy

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 305-8028



CHAPTER 297. PHARMACY TECHNICIANS AND PHARMACY TECHNICIAN TRAINEES

22 TAC §297.8

The Texas State Board of Pharmacy proposes amendments to §297.8 concerning Continuing Education Requirements. The amendments, if adopted, require the law portion of the continuing education requirements for pharmacy technicians to relate to Texas pharmacy law.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Dodson has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the rule will be to update the law portion of the requirements for pharmacy technicians to be consistent with the pharmacists' requirements. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with this section.

Comments on the proposed amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-8008. Comments must be received by 5:00 p.m., April 30, 2013.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§297.8. *Continuing Education Requirements.*

(a) (No change.)

(b) Pharmacy Technicians.

(1) - (2) (No change.)

(3) For renewals received after January 1, 2015, one [One]
hour specified in paragraph (2) of this subsection [~~subsection (a) of this~~

~~section~~] shall be related to Texas pharmacy laws or rules [~~pharmacy law~~].

(4) - (5) (No change.)

(6) Pharmacy technicians who are certified by the Pharmacy Technician Certification Board and maintain this certification shall be considered as having met the continuing education requirements of this section and shall not be subject to audit by the board provided one hour of continuing education is related to Texas pharmacy law or rules.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300859

Gay Dodson, R.Ph.

Executive Director/Secretary

Texas State Board of Pharmacy

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 305-8028



PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

CHAPTER 463. APPLICATIONS AND EXAMINATIONS

22 TAC §463.2

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.2, concerning Application Process. The proposed amendment will describe the exclusive method for obtaining an application for licensure from the Board and remove the dated reference to a non-existent fee for obtaining an application packet from the Board by mail. The fee referenced in paragraph (1) was found in §473.5 but has been deleted. The proposed amendment also clarifies the point from which the 90-day period begins to run during which an application file remains active. Lastly, the proposed amendment will clarify paragraphs (3) and (4), so that they accurately reflect the application review process.

Darrel D. Spinks, Executive Director, has determined that for the first five-year period the proposed amendment will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Mr. Spinks also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to help the Board protect the public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposed amendment may be submitted to Brenda Skiff, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700 or email brenda@tsbep.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No other code, articles or statutes are affected by this section.

§463.2. Application Process.

Applications for licensure are processed in the following manner:

(1) An individual must download, or otherwise obtain and complete [requests] the application packet for the type of licensure desired from the Board's website [and includes the fee for the Board to send the application packet]. No applicant can have more than one application pending before the Board at one time, unless the second application is to become a licensed specialist in school psychology.

(2) An applicant submits the completed application form, any other information required by the Board, and the application filing fee. An application which contains an incorrect fee amount or which does not include the information required to be submitted must be returned to the applicant. The responsibility of ensuring a complete application resides with the applicant. The application packet will contain a checklist which should be followed carefully. An incomplete application remains in the active file for 90 days following receipt by the Board, at the end of which time, if still incomplete, it is void. If licensure is sought again, a new application and filing fee must be submitted.

(3) Applications which contain all required information are reviewed by Board staff, and if necessary the Applications Committee of the Board, to determine if the applicants are eligible to sit for the examinations.

(4) Once an application [applicant] is reviewed [by the Applications Committee of the Board,] the applicant receives a letter from the Board approving or denying the applicant to sit for the examinations. If the letter indicates the applicant is approved, the applicant may then submit an examination application and the appropriate fees for any required examinations.

(5) After sitting for examination(s), an applicant is informed in writing of the results of the examination(s). An applicant who has passed the examination(s) is informed in writing that the applicant has been licensed.

(6) If an applicant's application for licensure is denied, the applicant shall have 20 days from the date of denial to submit a written request to the Board for a hearing at the State Office of Administrative Hearings. The Board must receive the written request on or before the 20th day following the date of denial for the request to be timely made. If a timely request is made, the Board shall refer the contested case to the State Office of Administrative Hearings for a hearing. If a timely written request is not made, the denial is final.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 20, 2013.

TRD-201300732

Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
Earliest possible date of adoption: April 7, 2013
For further information, please call: (512) 305-7706



CHAPTER 465. RULES OF PRACTICE

22 TAC §465.32

The Texas State Board of Examiners of Psychologists proposes an amendment to §465.32, concerning Disposition and Assumption of the Practice of a Mental Health Professional. The proposed amendment will remove the unenforceable and aspirational portion from the rule.

Darrel D. Spinks, Executive Director, has determined that for the first five-year period the proposed amendment will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Mr. Spinks also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to help the Board protect the public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposed amendment may be submitted to Brenda Skiff, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700 or email brenda@tsbep.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No other code, articles or statutes are affected by this section.

§465.32. Disposition and Assumption of the Practice of a Mental Health Professional.

(a) In General.

(1) A licensee has the right to sell or otherwise dispose of his or her practice to another licensed psychologist.

(2) A licensee has the right to assume the practice of a licensee.

(3) Arrangements regarding accounts receivable and other financial and tangible assets and liabilities of the practice being transferred must be resolved by the selling and assuming licensees prior to the transfer of any patient or client records.

~~[(4) A licensee shall make provisions for the transfer of his or her practice in the event of the licensee's death or disability in compliance with this section; all applicable Board rules; and state and federal laws.]~~

~~[(5) A non-licensee administrator or executor of a licensee's estate should be encouraged to dispose of the licensee's practice in accordance with this section.]~~

(b) Notice and Referral of Patients and Clients.

(1) A licensee who intends to sell, retire, or otherwise dispose of a practice must make reasonable efforts to notify current and former patients or clients that on a given date the practice is being sold and that patient or client records will be transferred to the referent unless the patient or client provides the name of an alternative mental health care provider to receive the records. This notice must provide a reasonable time to the patients and clients to make suitable responses and arrangements.

(2) A licensee who assumes the practice of another mental health service provider may state his or her willingness to provide services to all patients or clients the licensee is competent to treat.

(3) A licensee who assumes a practice must provide an appropriate referral to a qualified mental health services provider to any patient or client who notifies the licensee that they do not want to receive services from the licensee or to a patient or client to whom the licensee declines to offer services.

(4) If the patient or client accepts a referral, the referring licensee must forward the patient or client's records to that mental health professional.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 20, 2013.

TRD-201300733

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 305-7706



CHAPTER 473. FEES

22 TAC §473.3

The Texas State Board of Examiners of Psychologists proposes an amendment to §473.3, concerning Annual Renewal Fees (Not Refundable). The proposed amendment will modify the rule to accurately reflect the fact that the Board does charge a renewal fee for Psychologist Health Service Provider over the age of 70.

Darrel D. Spinks, Executive Director, has determined that for the first five-year period the proposed amendment will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Mr. Spinks also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to help the Board protect the public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposed amendment may be submitted to Brenda Skiff, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700 or email brenda@tsbep.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No other code, articles or statutes are affected by this section.

§473.3. Annual Renewal Fees (Not Refundable).

- (a) Psychological Associate Licensure--\$114.
- (b) Psychological Associate Licensure over the age of 70--\$16.
- (c) Provisionally Licensed Psychologist--\$109.
- (d) Provisionally Licensed Psychologist over the age of 70--\$16.
- (e) Psychologist Licensure--\$205.
- (f) Psychologist Licensure over the age of 70--\$16.
- (g) Psychologist Health Service Provider Status--\$20.
- ~~[(h) Psychologist Health Service Provider status over the age of 70--No Fee.]~~
- (~~h~~) [~~(i)~~] Licensed Specialist in School Psychology--\$57.
- (~~i~~) [~~(j)~~] Licensed Specialist in School Psychology over the age of 70--\$14.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 20, 2013.

TRD-201300734

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

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For further information, please call: (512) 305-7706



22 TAC §473.4

The Texas State Board of Examiners of Psychologists proposes an amendment to §473.4, concerning Late Fees for Renewals (Not Refundable). The proposed amendment is necessary to reflect the increased late fees for renewals required by Texas Occupations Code Annotated §501.302, as a result of the increase in the EPPP Examination fee.

Darrel D. Spinks, Executive Director, has determined that for the first five-year period the rule will be in effect, there will be an estimated increase in annual revenue of \$18,075. This figure is based upon an average of 227 people paying a late renewal fee in fiscal years 2010, 2011, and 2012. There are no additional costs or reductions in cost to the state or local governments expected as a result of enforcing or administering the rule.

Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Board protect the public. The estimated economic cost to an individual who fails to timely renew a license would increase from \$225 to \$300

for renewals one to ninety days late and from \$450 to \$600 for renewals ninety-one days to three hundred and sixty-four days late. There will be no effect on small businesses.

Comments on the proposed amendment may be submitted to Brenda Skiff, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700 or email brenda@tsbep.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No other code, articles or statutes are affected by this section.

§473.4. Late Fees for Renewals (Not Refundable).

(a) Licensed Psychological Associates, Provisionally Licensed Psychologists, Licensed Psychologists

(1) One day to ninety days--\$300 [~~\$225~~]

(2) Ninety-one days to less than one year--\$600 [~~\$450~~]

(b) Licensed Specialists in School Psychology

(1) One day to ninety days--\$105

(2) Ninety-one days to less than one year--\$210

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2013.

TRD-201300776

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 305-7706



22 TAC §473.7

The Texas State Board of Examiners of Psychologists proposes an amendment to §473.7, concerning Penalties. The proposed amendment will reflect the policy adopted by the Board at the October 25, 2012 Board meeting concerning increased penalty fees and administrative penalties for continuing education violations.

Darrel D. Spinks, Executive Director, has determined that for the first five-year period the rule will be in effect, there will be an estimated increase in annual revenue of \$3,250. This figure is based upon an average of 13 people paying the administrative fee for continuing education violations in fiscal years 2010, 2011, and 2012. There are no additional costs or reductions in cost to the state or local governments expected as a result of enforcing or administering the rule.

Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Board protect the

public. The estimated economic cost to an individual who fails to demonstrate proof of compliance with the Board's continuing education requirements within the time prescribed by law would increase from \$250 to \$500. There will be no economic cost to individuals who comply with the Board's continuing education requirements as a result of this rule. There will be no effect on small businesses.

Comments on the proposed amendment may be submitted to Brenda Skiff, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700 or email brenda@tsbep.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No other code, articles or statutes are affected by this section.

§473.7. Penalties.

(a) Continuing education noncompliance--\$500 [~~\$250~~]; and

(b) Disciplinary penalties (Refer to Rule 470.22).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2013.

TRD-201300777

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 305-7706



22 TAC §473.8

The Texas State Board of Examiners of Psychologists proposes an amendment to §473.8, concerning Open Records Fees. The proposed amendment is necessary to comply with Tex. Gov't Code Ann. §552.262 and to correct the outdated reference to the General Services Commission fee schedule.

Darrel D. Spinks, Executive Director, has determined that for the first five-year period the proposed amendment will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Mr. Spinks also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to help the Board protect the public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposed amendment may be submitted to Brenda Skiff, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700 or email brenda@tsbep.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No other code, articles or statutes are affected by this section.

§473.8. Open Records Fees.

In accordance with Texas Government Code §552.262, the Board adopts by reference the rules developed by the Office of the Attorney General in 1 TAC Part 3, Chapter 70 (relating to Cost of Copies of Public Information) for use by each governmental body in determining charges under Texas Government Code, Chapter 552 (Public Information) Subchapter F (Charges for Providing Copies of Public Information). [All fees shall conform with the General Services Commission schedule, and the fee schedule shall be available to the public during the Board's regular business hours.]

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 20, 2013.

TRD-201300735

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 305-7706



PART 39. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

CHAPTER 851. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS LICENSING AND ENFORCEMENT RULES

The Texas Board of Professional Geoscientists (Board) proposes amendments to 22 TAC §851.30 and §851.152, concerning the licensure and regulation of Professional Geoscientists.

BACKGROUND AND PURPOSE

The Board proposes amendments to clarify Geoscience Firm application requirements regarding verification of employment status of Professional Geoscientists who oversee geoscience work for the firm; and to clarify language specifying that Geoscience Firm registration is required for business entities that offer or are engaged in the non-exempt public practice of geoscience in Texas.

SECTION BY SECTION SUMMARY

An amendment to §851.30 is proposed to remove the requirement that a Professional Geoscientist who performs or supervises the geoscientific work for a Geoscience Firm is required to be a full-time employee of the firm. Amendments to §851.152 are proposed to clarify the language that registration is required for business entities that offer or are engaged in the non-exempt public practice of geoscience in Texas.

FISCAL NOTE

Charles Horton, Executive Director of the Board, has determined that for each fiscal year of the first five years the sections are in effect there is no cost to the state or local governments as a result of enforcing or administering the sections as proposed.

SMALL AND MICRO-BUSINESS ECONOMIC IMPACT ANALYSIS

Mr. Horton has determined that there may be little to no anticipated economic costs to small businesses or micro-businesses required to comply with proposed amendments to §851.30 and §851.152. Consequently, an economic impact statement or regulatory flexibility analysis is not required.

There will be no anticipated economic cost to individuals who are required to comply with the proposed sections. There is no anticipated negative impact on local government.

PUBLIC BENEFIT

Mr. Horton has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections is that the Board's application rules are clarified, firm registration guidelines are clarified, and the Board will be able to more effectively regulate the public practice of geoscience in Texas, which will protect and promote public health, safety, and welfare.

REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

The Board has determined that these proposals are not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. Although Professional Geoscientists and Registered Geoscience Firms play a key role in environmental protection for the state of Texas, this proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

Mr. Horton has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted in writing either in person or by courier to Charles Horton, Executive Director, Texas Board of Professional Geoscientists, 333 Guadalupe Street, Tower I-530, Austin, Texas 78701; by mail to P.O. Box 13225, Austin, Texas 78711; or by e-mail to chorton@tbpg.state.tx.us. When e-mailing comments, please indicate "Comments on Proposed Rules" in the e-mail subject line. Please submit comments within 30 days following publication of the proposal in the *Texas Register*.

SUBCHAPTER B. P.G. LICENSING, FIRM REGISTRATION, AND GIT CERTIFICATION

22 TAC §851.30

The proposed amendments are authorized by the Texas Occupations Code §1002.151 which provides that the Board shall adopt and enforce rules consistent with the Texas Geoscience Practice Act (the Act); by Texas Occupations Code §1002.154 which provides that Board shall enforce the Act; and by Texas Occupation Code §1002.351 which provides that the Board may adopt rules relating to the public practice of geoscience by a firm or corporation.

The proposed amendments affect Texas Occupations Code, Chapter 1002.

§851.30. Firm Registration.

(a) Registration required.[:] Unless an exemption applies, as outlined in Texas Occupations Code §1002.351(b), a firm or corporation may engage in the public practice of geoscience only if the firm is currently registered with the Board; and

(1) The geoscientific work is performed by, or under the supervision of, a Professional Geoscientist who is in responsible charge of the work and who signs and seals all geoscientific reports, documents, and other records as required by this chapter; or

(2) The business of the firm or corporation includes the public practice of geoscience as determined by Board rule and a principal of the firm or an officer or director of the corporation is a Professional Geoscientist and has overall supervision and control of the geoscientific work performed in this state. As provided in §851.10(21) of this chapter, the term firm includes corporations, sole-proprietorships, partnerships and/or joint stock associations. For the purposes of this section, the term public includes but is not limited to political subdivisions of the state, business entities, and individuals. The Board has the authority under the Act to issue an annual certificate of registration to applicants that, subsequent to review and evaluation, are found to have met all requirements of the Act and Board rules. The Board has the authority under the Act to deny a certificate of registration to any applicant found not to have met all requirements of the Act and Board rules. This section does not apply to an engineering firm that performs service or work that is both engineering and geoscience. For the purpose of fees, Geoscience Firms are categorized as either:

(A) An unincorporated sole-proprietorship (a single owned Professional Geoscientist's geoscience business that has no separate legal existence from its owner) registered by the Board to engage in the public practice of geoscience; or

(B) Any other type of firm, corporation, partnership (whether or not the partnership is an incorporated entity) or other business entity registered by the Board to engage in the public practice of geoscience.

(b) Unless registered by the Board or exempt from registration under Texas Occupations Code §1002.351, an individual, firm, or corporation may not represent to the public that the individual, firm, or corporation is a Professional Geoscientist or able to perform geoscientific services or prepare a geoscientific report, document, or other record that requires the signature and seal of a license holder under Texas Occupations Code §1002.263(b).

(c) Registration requirements.[:] In order to be eligible to register as a Geoscience Firm with the Board, the firm must:

(1) Affirm and demonstrate that the firm is an unincorporated sole-proprietorship or another business entity that offers or performs work that includes the public practice of geoscience;

(2) Identify an Authorized Official of a Firm who shall be responsible for: the process of submitting the application for the initial

registration of the firm with the Board; ensuring that the firm maintains compliance with the requirements of registration with the Board; ensuring that the firm complies with all laws, codes, rules, and standards applicable to the public practice of geoscience; ensuring that the firm renews its registration status as long as the firm offers or provides public geoscientific services; and communicating with the Board regarding any matter;

(3) Operate under a business model such that:

(A) The geoscientific work is performed by, or under the supervision of, a licensed Professional Geoscientist who is in responsible charge of the work and who signs and seals all geoscientific reports, documents, and other records as required by this chapter; or

(B) The principal business of the firm or corporation is the public practice of geoscience as determined by Board rule and a principal of the firm or an officer or director of the corporation is a licensed Professional Geoscientist and has overall supervision and control of the geoscientific work performed in this state;

(4) Identify the business model and the Professional Geoscientist who fulfills the role of the licensed Professional Geoscientist in paragraph (3) of this subsection;

(5) Unless the firm is an unincorporated sole-proprietorship or an unincorporated partnership, a firm seeking registration with the Board must register the firm with the Office of the Secretary of State (SOS) and obtain a certificate of authority. If the firm operates under a name other than that which is filed with the SOS, an Assumed Name Certificate must be filed with the County Clerk. A firm's SOS certificate of authority number and all Assumed Name Certificate instrument numbers must be provided to the Board upon initial application. If the firm is a sole-proprietorship and the firm operates under a name that does not include the last name of the individual sole proprietor, the firm shall file an Assumed Name Certificate with the County Clerk;

(6) Submit an application for registration of a firm (form C), in accordance to the procedures outlined in subsection (d) of this section;

(7) Upon initial application, a firm shall affirm that the licensed Professional Geoscientist performing or supervising the geoscientific work for a Geoscience Firm is an [a regular full-time] employee. A Geoscience Firm shall provide evidence of [the full-time] employment status upon request of the Board. [This subsection does not prohibit a licensed Professional Geoscientist from performing consulting geoscience services on a part-time basis as an individual. A Geoscience Firm shall provide that at least one regular full-time Professional Geoscientist employee directly supervise all geoscience work performed in branch, remote, or project offices. If such a branch, remote or project office is normally staffed full-time while performing geoscience work or is represented by the firm as a permanent full-time office, then at least one regular full-time Professional Geoscientist must be physically present in each such office.]

(d) Firm Registration Application Process.

(1) The Authorized Official of a Firm shall complete and submit, along with the required application fee, the form furnished by the Board which includes but is not limited to the following information listed in subparagraphs (A) - (E) of this paragraph:

(A) The name, address, and communication number of the firm offering to engage or engaging in the practice of professional geoscience for the public in Texas;

(B) The name, position, address, and communication numbers of each officer or director;

(C) The name, address and current active Texas Professional Geoscientist license number of each regular, full-time geoscience employee performing geoscientific work for the public in Texas on behalf of the firm;

(D) The name, location, and communication numbers of each subsidiary or branch office offering to engage or engaging in the practice of professional geoscience for the public in Texas, if any; and

(E) A signed statement attesting to the correctness and completeness of the application.

(2) Upon receipt of all required materials and fees and having satisfied requirements in this section, the firm shall be registered and a unique Geoscience Firm registration number shall be assigned to the firm registration. The new firm registration shall be set to expire at the end of the calendar month occurring one year after the firm registration is issued.

(3) An application is active for one year including the date that it is filed with the Board. After one year an application expires.

(4) Obtaining or attempting to obtain a firm registration by fraud or false misrepresentation is grounds for an administrative sanction and/or penalty.

(5) Applications are not reviewed until the application and fee have been received in the TBPB office. Applicants are initially notified of any deficiencies in the application.

(6) Applicants should respond to a deficiency notice within forty-five (45) days from the date of notification for applicants to correct deficiencies. If an applicant does not respond to a deficiency notice or does not ensure that necessary documents are provided to the TBPB office, the application will expire as scheduled one year after the date it became active.

(e) The application fee will not be refunded.

(f) The initial certificate of registration shall be valid for a period of one year from the date it is issued, plus any days remaining through the end of that month. A renewed firm registration is valid for a period of one year from the expiration date of the firm registration being renewed.

(g) A Geoscience Firm's completed and approved registration is the legal authority granted the holder to actively offer or practice geoscience upon meeting the requirements as set out in the Act and Board rules [these rules]. When a firm registration is issued, a firm registration certificate, the first firm registration certificate expiration card, and the first portable firm registration card is provided to the new Geoscience Firm. The firm registration certificate shall bear the name of the firm, the firm's unique Geoscience Firm registration number, and the date the firm registration was originally issued. The firm registration certificate is not valid proof of current registration as a firm, unless the firm registration certificate expiration card is accompanying the firm registration certificate and the date on the firm registration certificate card is not expired. The firm registration certificate expiration card shall bear the name of the firm, the firm's unique firm registration license number, and the date the firm registration will expire, unless it is renewed. The portable firm registration card shall bear the name of the firm, the firm's unique Geoscience Firm registration number, the date the registration was originally issued, and the date the registration will expire, unless it is renewed.

(h) At least sixty (60) days in advance of the date of the expiration, the Board shall notify each firm holding a certificate of registration of the date of the expiration and the amount of the fee that shall be required for its renewal for one year. The certificate of registration

may be renewed by completing the renewal application and paying the annual registration renewal fee set by the Board. It is the sole responsibility of the firm to pay the required renewal fee prior to the expiration date, regardless of whether the renewal notice is received.

(i) A certificate of registration which has been expired for less than one (1) year may be renewed by completing a firm registration renewal application; an affirmation signed by the Authorized Official of a Firm and the licensed Professional Geoscientist who performs or supervises the geoscience work for the firm indicating whether geoscientific services were offered, pending, or performed for the public in Texas when the firm's registration was expired and payment of a \$50 late renewal penalty. If a firm under application for late firm registration renewal has met the requirements for renewal and has indicated that the geoscience services were offered, pending, or performed for the public in Texas while the firm's registration was expired, unless certain allegations of misconduct are present, the firm's registration shall be renewed. Information regarding unregistered geoscience practice received under this section shall be referred to the enforcement division for appropriate action that could include the initiation of a complaint by the Board. A firm registration that has been expired for more than one year is permanently expired and may not be renewed; a new application is required.

(j) The application fee is non-refundable.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300815

Charles Horton

Executive Director

Texas Board of Professional Geoscientists

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 936-4405



SUBCHAPTER D. COMPLIANCE AND ENFORCEMENT

22 TAC §851.152

The proposed amendments are authorized by the Texas Occupations Code §1002.151 which provides that the Board shall adopt and enforce rules consistent with the Texas Geoscience Practice Act (the Act); by Texas Occupations Code §1002.154 which provides that Board shall enforce the Act; and by Texas Occupation Code §1002.351 which provides that the Board may adopt rules relating to the public practice of geoscience by a firm or corporation.

The proposed amendments affect Texas Occupations Code, Chapter 1002.

§851.152. Firm Compliance.

(a) A business entity or sole proprietor that offers or is engaged in the non-exempt public practice of geoscience in Texas must register [and is found to not be registered] with the Board [shall register with the Board] pursuant to the requirements of §851.30 of this chapter [within thirty (30) days of written notice from the Board].

(b) A business entity or sole proprietor that offers or is engaged in the non-exempt public practice of geoscience in Texas [and that fails

to comply with subsection (a) of this section or that has previously been registered with the Board and] whose firm registration has expired shall be considered to be in violation of Board rules and will be subject to administrative penalties as set forth in §§1002.451 - 1002.457 of the Act.

(c) The Board may revoke a certificate of registration that was obtained in violation of the Act and/or Board rules including, but not limited to, fraudulent or misleading information submitted in the application [or lack of employee relationship with the designated Professional Geoscientist for the firm].

(d) A business entity or sole proprietor that is not registered with the Board may not represent to the public by way of letters, signs, or symbols as a part of any sign, directory, listing, contract, document, pamphlet, stationery, advertisement, signature, or business name that it is engaged in the non-exempt public practice of geoscience by using the terms:

- (1) "geoscientist,"
- (2) "geoscience,"
- (3) "geoscience services,"
- (4) "geoscience company,"
- (5) "geoscience, inc.,"
- (6) "Professional Geoscientists,"
- (7) "licensed geoscientists,"
- (8) "registered geoscientists,"
- (9) "licensed Professional Geoscientists,"
- (10) "registered Professional Geoscientist," or

(11) any abbreviation or variation of those terms listed in paragraphs (1) - (10) of this subsection, or directly or indirectly use or cause to be used any of those terms in combination with other words.

(e) In addition to reporting requirements in §851.112 of this chapter, each Geoscience Firm shall notify the Board in writing no later than thirty (30) days after a change in the business entity's:

- (1) Physical or mailing address, electronic mail address, telephone or facsimile number or other contact information;
- (2) Officers or directors if they are the sole Professional Geoscientists of the firm;
- (3) Employment status of the Professional Geoscientists of the firm;
- (4) Operation including dissolution of the firm or that the firm no longer offers to provide or is not providing geoscientific services to the public in Texas; or
- (5) Operation including addition or dissolution of branch and/or subsidiary offices.

(f) Notice as provided in subsection (e) of this section shall include, as applicable, the:

- (1) Full legal trade or business name entity;
- (2) The firm registration number;
- (3) Telephone number of the business office;
- (4) Name and license number of the license holder employed by or leaving the entity;
- (5) Description of the change; and

(6) Effective date of this change.

(g) A Geoscience Firm shall ensure that all geoscience work is done by or under the responsible charge of a Professional Geoscientist.

(h) A Geoscience Firm that obtains a new certificate of authority from the [Texas] Office of the Secretary of State or files a new Assumed Name Certificate with the County Clerk or the [Texas] Office of the Secretary of State must provide the new instrument number to the Board within thirty (30) days of the action.

(i) All geoscience documents which require a P.G. seal which are released, issued, or submitted by or for a Geoscience Firm must also clearly indicate the firm name and registration number. In addition, Geoscience Firms are responsible for ensuring that documents are sealed in accordance with §851.156 of this chapter prior to dissemination of the material.

(j) The Board may revoke or suspend a Geoscience Firm's registration, place on probation a firm whose registration has been suspended, reprimand a Geoscience Firm, or assess an administrative penalty against a Geoscience Firm for a violation of any provision of Board rules [these rules] or the Act by the firm or any employee of the firm. The Board also may take action against an Applicant pursuant to §851.110 of this chapter.

(k) Upon a finding of professional misconduct, the Board may consider but is not limited to the following factors in determining an appropriate sanction or sanctions against a Geoscience Firm:

- (1) The seriousness of the conduct, including the hazard or potential hazard to the health or safety of the public;
- (2) The economic damage or potential damage to property caused by the misconduct;
- (3) The respondent's history concerning previous grounds for sanction;
- (4) The sanction necessary to deter future misconduct;
- (5) Efforts to correct the misconduct; and
- (6) Any other matter justice may require.

(l) A Geoscience Firm shall maintain a work environment that uses standard operating procedures and quality assurance/quality control standards related to the Geoscience Firm's practice to ensure that the Geoscience Firm protects the health, safety, property, and welfare of the public.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300816

Charles Horton

Executive Director

Texas Board of Professional Geoscientists

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 936-4405



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 13. CONTROLLED SUBSTANCES SUBCHAPTER A. GENERAL PROVISIONS

37 TAC §13.1

The Texas Department of Public Safety (the department) proposes amendments to §13.1, concerning Definitions. The proposed amendments are intended to reorganize and consolidate the rules governing definitions and to generally improve the clarity of the related rules.

Denise Hudson, Assistant Director, Finance, has determined that for each year of the first five-year period the amendments are in effect there will be no fiscal implications for state or local government, or local economies.

Ms. Hudson has determined that there will be no adverse economic effect on small businesses or micro-businesses required to comply with the amendments as proposed. There is no anticipated economic cost to individuals who are required to comply with the amendments as proposed. There is no anticipated negative impact on local employment.

In addition, Ms. Hudson has also determined that for each year of the first five-year period the amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be improved compliance by registrants with the statutes and regulations pertaining to the issuance of prescriptions for controlled substances in this state.

The department has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

Comments on this proposal may be submitted to Steve Moninger, Office of Regulatory Counsel, Regulatory Services Division, Texas Department of Public Safety, P.O. Box 4087, MSC-0246, Austin, Texas 78752-0246, (512) 424-5842. Comments must be received no later than 30 days from the date of publication of this proposal.

The amendments are proposed pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Health and Safety Code, §481.003, which authorizes the department to adopt rules to enforce Chapter 481.

Texas Government Code, §411.004(3) and Texas Health and Safety Code, §481.003 are affected by this proposal.

§13.1. *[Chapter] Definitions.*

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Act--The Texas Controlled Substances Act (Texas Health and Safety Code, Chapter 481).

~~{(2) Administer, abuse unit, adulterant or dilutant, agent, controlled premises, controlled substance, controlled substance analogue, deliver, delivery, designated agent, director, dispense, distribute, distributor, drug, drug paraphernalia, Federal Drug Enforcement Administration, hospital, institutional practitioner, lawful possession, manufacture, marihuana, medication order, narcotic drug, official prescription form, opiate, patient, person, pharmacist, pharmacist-in-charge, pharmacy, possession, practitioner, prescribe, prescription, principal place of business, and registrant--Have the meanings assigned those terms by the Act, §481.002.}~~

(2) ~~[(3)]~~ Advanced practice nurse (APN)--An individual recognized as a licensed advanced ~~[advanees]~~ practice nurse by the Texas Board of Nursing.

(3) Controlled substances registration (CSR)--A registration issued pursuant to the Act.

~~{(4) CSR--Controlled Substances Registration.}~~

(4) ~~[(5)]~~ Day--A calendar day unless the context clearly indicates ~~[another meaning such as]~~ a business day.

(5) ~~[(6)]~~ Department (DPS)--The Texas Department of Public Safety.

(6) ~~[(7)]~~ Drug Enforcement Administration (DEA)--The Federal Drug Enforcement Administration.

(7) ~~[(8)]~~ Electronic transmission--The transmission of information in electronic form such as computer to computer, electronic device to computer, e-mail, or the transmission of the exact visual image of a document by way of electronic media.

(8) ~~[(9)]~~ Emergency medical service (EMS)--An entity recognized as such under Texas Administrative Code, Title 22, Part 9, Chapter 197 ~~[comprised of all needed emergency equipment and trained personnel to administer proper pre-hospital care in a medical or health situation].~~

(9) ~~[(10)]~~ Emergency medical service medical director (EMSMD)--A person recognized as such under Texas Administrative Code, Title 22, Part 9, Chapter 197~~[- §197.2(9) and has a current DPS registration].~~

(10) ~~[(11)]~~ Emergency medical service provider (EMSP)--A person licensed as such by the Texas Department of State Health Services.

(11) Emergency situation--A situation described in the Code of Federal Regulations, Title 21, §1306.11(d).

(12) First responder organization (FRO)--An organization certified as such by the Texas Department of State Health Services.

(13) Freestanding emergency medical care facility (FEC)--A facility that is structurally separate and distinct from a hospital and which provides emergency care as licensed by the Texas Department of State Health Services.

~~{(13) Health practitioner--An individual licensed under the laws of this state to provide health or veterinary services during emergency or disaster situations in this state.}~~

(14) Individual practitioner--A physician, dentist, veterinarian, optometrist, podiatrist, or other individual licensed, registered, or otherwise permitted to dispense a controlled substance in the course

of professional practice, but does not include a pharmacist, a pharmacy, or an institutional practitioner.

~~[(15) Inhalant paraphernalia--An item or other material defined as such by Texas Health and Safety Code, §485.001.]~~

~~[(15) [(46)] Institutional practitioner--A hospital or other person (other than an individual) licensed, registered, or otherwise permitted to dispense a controlled substance in the course of professional practice, but does not include a pharmacy.~~

~~[(16) [(47)] Laboratory apparatus--An item subject to Subchapter E of this chapter (relating to Precursors and Apparatus).~~

~~[(18) Licensed vocational nurse (LVN)--An individual recognized as a licensed vocational nurse by the Texas Board of Nursing.]~~

~~[(17) [(49)] Locum tenen--An individual practitioner who practices in a temporary position in this state and licensed by the appropriate Texas state licensing board.~~

~~[(18) [(20)] Long-term care facility (LTCF)--An establishment licensed as such by the Texas Department of Aging and Disability Services.~~

~~[(19) [(24)] Mid-level practitioner--An individual practitioner, other than a physician, dentist, veterinarian, optometrist, or podiatrist, who is licensed, registered, or otherwise permitted to dispense a controlled substance in the course of professional practice. Examples of mid-level practitioners include, but are not limited to, health care providers such as advanced practice nurse and physician assistants who are authorized to dispense controlled substances.~~

~~[(20) NDC #--A National Drug Code number.~~

~~[(22) Narcotics controlled substance--A narcotic drug or other controlled substance that contains opium or an opiate derivative.]~~

~~[(23) Non-narcotic controlled substance--A controlled substance that does not contain opium or an opiate derivative.]~~

~~[(24) PCLAS--The precursor chemical/Laboratory Apparatus Section.]~~

~~[(21) [(25)] Physician assistant--An individual licensed as such by the Texas Physician Assistant Board.~~

~~[(26) Precursor chemical--A substance subject to Subchapter E of this chapter (relating to Precursors and Apparatus).]~~

~~[(27) Readily retrievable record--A record created and maintained by an automatic data processing or mechanized record keeping system so that a particular type of record can be separated from all other records in a reasonable time. The term includes a record created and maintained by annotation of each material item with an asterisk, redline, or some other manner visually identifiable apart from all other items appearing on the required record.]~~

~~[(22) [(28)] Record--A notification, order form, statement, invoice, prescription, inventory information, or other document for the acquisition or disposal of a controlled substance, precursor, or apparatus in any manner by a registrant or permit holder under a record keeping or inventory requirement of federal law, the Act, or this chapter.~~

~~[(23) [(29)] Registered nurse--An individual recognized as such by the Texas Board of Nursing.~~

~~[(24) Reportable prescription--A prescription for a controlled substance:~~

~~(A) listed in Schedule II through V; and~~

~~(B) not excluded from this chapter by a rule adopted under the Act, §481.0761(b).~~

~~[(30) Schedule II--A list of narcotic and non-narcotic controlled substances found in the most current version of Schedule II as established or altered by the commissioner of health under the Act, Subchapter B, and published in the Texas Register.]~~

~~[(31) Stored--The keeping of controlled substances at a principal place of business. The term does not include the medical lockers in emergency medical vehicles, aircraft (fixed or rotor wing) or vessels while the vehicles, aircraft or vessels are in their stations, hangers or docking stations awaiting calls.]~~

~~[(25) [(32)] Temporary Controlled Substances Registration (TCSR)--A controlled substances registration issued to a locum tenen or a health practitioner for a period of time not to exceed 90 days.~~

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2013.

TRD-201300750

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 424-5848



37 TAC §§13.2 - 13.11

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Public Safety or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Department of Public Safety (the department) proposes the repeal of §§13.2 - 13.11, concerning General Provisions. The repeal of these sections is necessary for the purpose of reorganizing and consolidating the rules governing definitions and to generally improve the clarity of the related rules.

Denise Hudson, Assistant Director, Finance, has determined that for each year of the first five-year period the repeal is in effect there will be no fiscal implications for state or local government, or local economies.

Ms. Hudson has determined that there will be no adverse economic effect on small businesses or micro-businesses required to comply with the repeal as proposed. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed. There is no anticipated negative impact on local employment.

In addition, Ms. Hudson has also determined that for each year of the first five-year period the repeal is in effect, the public benefit anticipated as a result of enforcing the repeal will be to ensure to the public greater efficiency and accuracy in the reporting of prescription data of applications and greater compliance by registrants with the statutes and regulations pertaining to reporting prescriptions for controlled substances in this state.

The department has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and

that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

Comments on this proposal may be submitted to Steve Moninger, Office of Regulatory Counsel, Regulatory Services Division, Texas Department of Public Safety, P.O. Box 4087, MSC-0246, Austin, Texas 78752-0246, (512) 424-5842. Comments must be received no later than 30 days from the date of publication of this proposal.

The repeal is proposed pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Health and Safety Code, §481.003, which authorizes the department to adopt rules to enforce Chapter 481 of the Texas Health and Safety Code.

Texas Government Code, §411.004(3) and Texas Health and Safety Code, §481.003 are affected by this proposal.

§13.2. *Other State or Federal Laws, Rules, or Regulations.*

§13.3. *Alternative Schedule Nomenclature.*

§13.4. *Notification, Information, and Electronic Transmission.*

§13.5. *Acceptance of Non-standard Communication.*

§13.6. *Waiver Rescission.*

§13.7. *Telephone Number and Address - Narcotics Regulation Bureau.*

§13.8. *Telephone Number and Address - Controlled Substances Registration Section.*

§13.9. *Telephone Number and Address - Texas Prescription Program.*

§13.10. *Telephone Number and Address - Precursor Chemical/Laboratory Apparatus Section.*

§13.11. *Telephone Number and Address - Crime Laboratory Service.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2013.

TRD-201300746

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 424-5848



SUBCHAPTER B. REGISTRATION

37 TAC §§13.21 - 13.33

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Public Safety or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Department of Public Safety (the department) proposes the repeal of §§13.21 - 13.33, concerning Registration. The repeal of this subchapter is intended to reorganize and consolidate the rules governing registration requirements and procedures, and to generally improve the clarity of the related rules.

Denise Hudson, Assistant Director, Finance, has determined that for each year of the first five-year period the repeal is in effect there will be no fiscal implications for state or local government, or local economies.

Ms. Hudson has determined that there will be no adverse economic effect on small businesses or micro-businesses required to comply with the repeal as proposed. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed. There is no anticipated negative impact on local employment.

In addition, Ms. Hudson has also determined that for each year of the first five-year period the repeal is in effect, the public benefit anticipated as a result of enforcing the repeal will be to ensure to the public greater efficiency in the processing of applications and greater compliance by registrants with the statutes and regulations pertaining to the requirements for registration of those who issue prescriptions for controlled substances in this state.

The department has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

Comments on this proposal may be submitted to Steve Moninger, Office of Regulatory Counsel, Regulatory Services Division, Texas Department of Public Safety, P.O. Box 4087, MSC-0246, Austin, Texas 78752-0246, (512) 424-5842. Comments must be received no later than 30 days from the date of publication of this proposal.

The repeal is proposed pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Health and Safety Code, §481.003, which authorizes the department to adopt rules to enforce Chapter 481.

Texas Government Code, §411.004(3) and Texas Health and Safety Code, §481.003 are affected by this proposal.

§13.21. *Who Must Register.*

§13.22. *Registration for Certain Activities.*

§13.23. *Separate Registration for Separate Location.*

§13.24. *Exemption from Registration.*

§13.25. *Application.*

§13.26. *Certificate.*

§13.27. *Fees.*

§13.28. *Fee Exemption.*

§13.29. *Expiration.*

§13.30. *Termination.*

§13.31. *Security, Record Keeping, Inventory, Inspection, and Reporting Discrepancy, Loss, Theft, or Diversion.*

§13.32. *Communication with Director (CSR Section).*

§13.33. *Miscellaneous.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2013.

TRD-201300747

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 424-5848



37 TAC §§13.21 - 13.27

The Texas Department of Public Safety (the department) proposes new §§13.21 - 13.27, concerning Registration. This new subchapter is proposed simultaneously with the proposed repeal of current Subchapters B and F, consisting of §§13.21 - 13.33 and §§13.131 - 13.137, respectively. The proposed new Subchapter B is intended to reorganize and consolidate the rules governing registration requirements and procedures and to generally improve the clarity of the related rules.

Denise Hudson, Assistant Director, Finance, has determined that for each year of the first five-year period the new sections are in effect there will be no fiscal implications for state or local government, or local economies.

Ms. Hudson has determined that there will be no adverse economic effect on small businesses or micro-businesses required to comply with the sections as proposed. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed. There is no anticipated negative impact on local employment.

In addition, Ms. Hudson has also determined that for each year of the first five-year period the new sections are in effect, the public benefit anticipated as a result of enforcing the sections will be to ensure to the public greater efficiency in the processing of applications and greater compliance by registrants with the statutes and regulations pertaining to the requirements for registration of those who issue prescriptions for controlled substances in this state.

The department has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly,

the department is not required to complete a takings impact assessment regarding this proposal.

Comments on this proposal may be submitted to Steve Moninger, Office of Regulatory Counsel, Regulatory Services Division, Texas Department of Public Safety, P.O. Box 4087, MSC-0246, Austin, Texas 78752-0246, (512) 424-5842. Comments must be received no later than 30 days from the date of publication of this proposal.

The new sections are proposed pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Health and Safety Code, §481.003, which authorizes the department to adopt rules to enforce Chapter 481.

Texas Government Code, §411.004(3) and Texas Health and Safety Code, §481.003 are affected by this proposal.

§13.21. Registration Categories and Schedules.

(a) The department may register a person for one or more of the following categories of business activity:

- (1) practitioner;
- (2) pharmacy;
- (3) hospital;
- (4) manufacturer;
- (5) researcher;
- (6) teaching institution;
- (7) distributor;
- (8) analyst or analytical lab;
- (9) EMSP;
- (10) peyote distributor; or
- (11) mid-level practitioner.

(b) The department may register a person for one or more of the following schedules:

- (1) Schedule I;
- (2) Schedule II (narcotic);
- (3) Schedule II (non-narcotic);
- (4) Schedule III (narcotic);
- (5) Schedule III (non-narcotic);
- (6) Schedule IV; or
- (7) Schedule V.

§13.22. Registration for Research Activities.

(a) A person seeking registration to conduct research involving a Schedule I controlled substance must comply with the Act, §481.065(b), and submit a copy of the protocol submitted to DEA. Once submitted, the protocol becomes a part of the application for all purposes.

(b) If the registration is approved by the department, the person may conduct research only:

- (1) in the manner expressly detailed in the protocol; and
- (2) using a controlled substance expressly specified in the protocol.

§13.23. Application.

(a) Applicants for a registration under this subchapter must apply in a manner prescribed by the department.

(b) By submitting an application, the applicant agrees to allow the department to conduct background checks as authorized by law.

(c) An application is complete when:

(1) it contains all of the items required by the department, including applicant's complete criminal history reflecting all convictions and deferred adjudications;

(2) it conforms to the requirements of the Act and this chapter;

(3) all required fees have been paid; and

(4) all requests for additional information have been satisfied.

(d) If an incomplete application is received, notice will be sent to the applicant stating the application is incomplete and specifying the information required for completion.

(e) The applicant has 60 days after receipt of notice to provide the required information and submit a complete application. If an applicant fails to furnish the documentation, the application will be considered withdrawn.

(f) One of the following individuals must sign an application form and each additional document or statement required by the department:

(1) the applicant, if the applicant is an individual;

(2) a general partner of the applicant, if the applicant is a partnership;

(3) an officer of the applicant, if the applicant is a corporation or other business association;

(4) the administrator of the applicant, if the applicant is a hospital or teaching institution; or

(5) the pharmacist-in-charge of the applicant, if the applicant is a pharmacy or a remote site.

(g) An application from an EMSP seeking to register EMS or FRO activities must be signed by an executive of the EMSP and the EMSMD.

(h) If an individual is not listed in subsection (f) of this section, an applicant who is listed may authorize the individual to sign an application form or other document on the applicant's behalf by filing a power of attorney. The applicant must:

(1) ensure the power of attorney is signed by an individual listed in subsection (f) of this section; and

(2) file the power of attorney with the department.

(i) The department may reject an application if a signature required by this chapter is incomplete or insufficient, including a signature accompanied by a notation that the signature is "reserved," "without prejudice," "locus sigilli," "L. S.," or otherwise less than fully effective for the required purpose.

(j) An expired registration may be renewed for up to 180 days after the expiration date. If the registration has been expired for more than 180 days, a new application must be submitted.

(k) A separate application for registration is required for each principal place of business or professional practice.

§13.24. Fees.

(a) For purposes of administering the Act, the department has prescribed a nonrefundable fee of \$25 for each annual period of registration. Upon development of the necessary software and processing modifications, the department will implement biennial registration. At that time, the registration fee will be \$50 for each biennium.

(b) The registration fee must be submitted with each application for new registration, renewal registration, or modification of existing registration.

(c) Payment of fees shall be in the manner prescribed by the department. If payment is dishonored or reversed prior to issuance of the certificate, the application will be abandoned as "incomplete". If the certificate or registration has been issued prior to being dishonored or reversed, revocation proceedings will be initiated pursuant to the Act §481.066(e). The department may dismiss a pending revocation proceeding upon receipt of payment of the full amount due, including any additional processing fees.

(d) A person may be exempted from payment of a fee for registration or renewal, if the person's superior certifies on the application the person is exempted from payment of a fee under the Code of Federal Regulations, Title 21, §1301.21.

(e) Exemption from payment of a new registration or renewal fee:

(1) authorizes registrant, where applicable, to acquire, possess or handle a controlled substance only at the exempt location; and

(2) does not relieve the registrant of another requirement or duty prescribed by law.

(f) The department may charge a late fee of \$50 for each renewal application received after the date of expiration.

§13.25. Expiration.

(a) A certificate of registration is valid for one year, unless and until the department implements a two-year period of validity.

(b) A modification to, or an early renewal of a certificate of registration, does not affect the date of expiration.

(c) An expired registration provides the registrant with no authority to manufacture, distribute, prescribe, possess, analyze, dispense, or conduct research with a controlled substance.

§13.26. Requirement to Update Information.

(a) An applicant for or holder of a registration, a temporary registration, or an annual permit must notify the department before the seventh day after any modification or change in the person's business name, address, physician delegating prescriptive authority, telephone number or other information required on the application, registration, or permit.

(b) The notification must be in writing and include the signature of the registrant or other person who is authorized to sign an original application.

(c) If changing a supervising physician's delegating prescriptive authority, the notification must include the physician's:

(1) name;

(2) Texas Medical Board license number;

(3) DPS registration number;

(4) signature; and

(5) date of signature.

(d) A request for modification of a registration may be denied if the modification does not meet the requirements under this section, or if there exists an applicable basis for the denial of an application as described in the Act, §481.063(e).

(e) A registrant may not transfer or assign a registration certificate or an authority conferred by the registration.

§13.27. Mid-level Practitioner:

(a) A mid-level practitioner must have a supervisory physician with delegating prescriptive authority as required by the Act, §481.002(39)(D). Each physician must certify the authorizing delegation on the mid-level practitioner's application and include the physician's:

- (1) name;
- (2) Texas Medical Board license number;
- (3) DPS registration number;
- (4) signature; and
- (5) date of signature.

(b) A physician who signs a mid-level practitioner's application as the supervising physician assumes responsibility for ensuring the mid-level practitioner practices under the laws of this state related to controlled substances prescribing activities. A physician who fails to properly monitor the mid-level practitioner's activities may be subject to disciplinary action.

(c) A supervising physician must have an unrestricted and active DPS registration and Texas Medical Board license number.

(d) Modification or change of delegating physician.

(1) A change of delegating physician must be submitted in writing as required by this chapter.

(2) A delegating physician must notify the department in writing to terminate delegation with a mid-level practitioner.

(e) A physician who holds the position of medical director, chief of staff, or emergency room department chair at a licensed hospital may be designated as the supervising physician for a mid-level practitioner providing medical services within the emergency room. This physician may then delegate the direct supervision of the mid-level practitioner to staff physicians providing medical services within the emergency room, provided the supervising physician determines the mid-level practitioners are properly trained to deliver services, the services are of such a nature that they may be safely and competently delivered by the supervised mid-level practitioners, and the proper paperwork has been filed with the Texas Medical Board. The supervision of mid-level practitioners must comply with all institutional rules and there must be accurate and timely internal institutional records made available to the department within 24 hours of a request, listing the name and license number of the physician.

(f) The physician is limited to the extent and number of mid-level practitioners the physician delegated as outlined in Texas Occupations Code, Chapter 157.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2013.

TRD-201300751

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 424-5848



SUBCHAPTER D. TEXAS PRESCRIPTION PROGRAM

37 TAC §§13.71 - 13.99

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Public Safety or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Department of Public Safety (the department) proposes the repeal of §§13.71 - 13.99, concerning Texas Prescription Program. The repeal of this subchapter is intended to reorganize and consolidate the rules governing the Texas Prescription Program's reporting requirements and procedures and to generally improve the clarity of the related rules.

Denise Hudson, Assistant Director, Finance, has determined that for each year of the first five-year period the repeal is in effect there will be no fiscal implications for state or local government, or local economies.

Ms. Hudson has determined that there will be no adverse economic effect on small businesses or micro-businesses required to comply with the repeal as proposed. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed. There is no anticipated negative impact on local employment.

In addition, Ms. Hudson has also determined that for each year of the first five-year period the repeal is in effect, the public benefit anticipated as a result of enforcing the repeal will be to ensure to the public greater efficiency and accuracy in the reporting of prescription data of applications and greater compliance by registrants with the statutes and regulations pertaining to reporting prescriptions for controlled substances in this state.

The department has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

Comments on this proposal may be submitted to Steve Moninger, Office of Regulatory Counsel, Regulatory Services Division, Texas Department of Public Safety, P.O. Box 4087, MSC-0246, Austin, Texas 78752-0246, (512) 424-5842. Comments must be received no later than 30 days from the date of publication of this proposal.

The repeal is proposed pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Health and Safety Code, §481.003, which authorizes the department to adopt rules to enforce Chapter 481.

Texas Government Code, §411.004(3) and Texas Health and Safety Code, §481.003 are affected by this proposal.

- §13.71. *Subchapter Definitions.*
- §13.72. *Official Prescription Form.*
- §13.73. *Form.*
- §13.74. *Exceptions to Use of Form.*
- §13.75. *Pharmacy Responsibility--Generally.*
- §13.76. *Pharmacy Responsibility--Electronic Reporting.*
- §13.77. *Electronic Compatibility.*
- §13.78. *Waiver from Electronic Reporting.*
- §13.79. *Pharmacy Responsibility - Non-electronic Reporting.*
- §13.80. *Pharmacy Responsibility - Emergency Situation.*
- §13.81. *Pharmacy Responsibility - Questionable Prescription.*
- §13.82. *Pharmacy Responsibility - Out-of-State Practitioner.*
- §13.83. *Return of Unused Form.*
- §13.84. *Release of Non-statistical Information.*
- §13.85. *Deletion or Return.*
- §13.86. *Prescription Forms.*
- §13.87. *Written Form.*
- §13.88. *Exceptions to Use of Written Form.*
- §13.89. *Pharmacy Responsibility--Generally.*
- §13.90. *Pharmacy Responsibility--Electronic Reporting.*
- §13.91. *Electronic Compatibility.*
- §13.92. *Waiver from Electronic Reporting.*
- §13.93. *Pharmacy Responsibility--Non-electronic Reporting.*
- §13.94. *Pharmacy Responsibility--Oral, Telephonic or Electronic Prescriptions.*
- §13.95. *Pharmacy Responsibility--Questionable Prescriptions.*
- §13.96. *Pharmacy Responsibility--Out-of-State Practitioner.*
- §13.97. *Release of Non-statistical Information.*
- §13.98. *Deletion or Return.*
- §13.99. *Communication with Director (Texas Prescription Program).*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2013.

TRD-201300748

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 424-5848



37 TAC §§13.71 - 13.83

The Texas Department of Public Safety (the department) proposes new §§13.71 - 13.83, concerning Texas Prescription Program. This new subchapter is proposed simultaneously with the proposed repeal of current Subchapter D consisting of §§13.71

- 13.99. The proposed new Subchapter D is intended to reorganize and consolidate the rules governing the Texas Prescription Program's reporting requirements and procedures and to generally improve the clarity of the related rules.

Denise Hudson, Assistant Director, Finance, has determined that for each year of the first five-year period the new sections are in effect there will be no fiscal implications for state or local government, or local economies.

Ms. Hudson has determined that there will be no adverse economic effect on small businesses or micro-businesses required to comply with the sections as proposed. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed. There is no anticipated negative impact on local employment.

In addition, Ms. Hudson has also determined that for each year of the first five-year period the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be to ensure to the public greater efficiency in the processing of applications and greater compliance by registrants with the statutes and regulations pertaining to the requirements for registration of those who issue prescriptions for controlled substances in this state.

The department has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

Comments on this proposal may be submitted to Steve Moninger, Office of Regulatory Counsel, Regulatory Services Division, Texas Department of Public Safety, P.O. Box 4087, MSC-0246, Austin, Texas 78752-0246, (512) 424-5842. Comments must be received no later than 30 days from the date of publication of this proposal.

The new sections are proposed pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Health and Safety Code, §481.003, which authorizes the department to adopt rules to enforce Chapter 481.

Texas Government Code, §411.004(3) and Texas Health and Safety Code, §481.003 are affected by this proposal.

§13.71. Official Prescription Form.

(a) A practitioner may order official prescription forms from the department only if the practitioner is registered by the department and the DEA to prescribe a Schedule II controlled substance.

(b) The department is the sole source for the official prescription forms.

(c) This subsection applies only to an institutional practitioner who is employed by a hospital or other training institution registered by

the department. An institutional practitioner authorized by a hospital or institution to prescribe a Schedule II controlled substance under the registration of the hospital or institution may order official prescription forms under this section if:

(1) the practitioner prescribes a controlled substance in the usual course of the practitioner's training, teaching program, or employment at the hospital or institution;

(2) the appropriate state health regulatory agency has assigned an institutional permit or similar number to the practitioner; and

(3) the hospital or institution:

(A) maintains a current list of each institutional practitioner and each assigned institutional permit number; and

(B) makes the list available to another registrant or a member of a state health regulatory or law enforcement agency for the purpose of verifying the authority of the practitioner to prescribe the substance.

§13.72. Prescriptions.

(a) Schedule II Prescriptions.

(1) A practitioner, as defined in the Act, §481.002(39)(A), must issue a written prescription for a Schedule II controlled substance only on an official Texas prescription form or through an electronic prescription that includes the controlled substances registration number issued by the department and meets all requirements of the Act. This subsection also applies to a prescription issued in an emergency situation.

(2) A practitioner who issues a written prescription for any quantity of a Schedule II controlled substance must complete an official prescription form by legibly completing the spaces provided.

(3) A practitioner may issue multiple written prescriptions authorizing a patient to receive up to a 90-day supply of a Schedule II controlled substance provided:

(A) each prescription is issued for a legitimate medical purpose while practitioner is acting in the usual course of professional practice;

(B) the practitioner provides written instructions on each prescription, other than the first prescription that is to be filled within 21 days of issuance, indicating the earliest date on which a pharmacy may fill each prescription; and

(C) the practitioner concludes that providing the patient with multiple prescriptions in this manner does not create an undue risk of diversion or abuse.

(b) Schedules III through V Prescriptions.

(1) A practitioner, as defined in the Act, §481.002(39)(A), (C), (D), may use prescription forms and order forms through individual sources. A practitioner may issue, or allow to be issued by a person under the practitioner's direction or supervision, a Schedule III through V controlled substance on a prescription form for a valid medical purpose and in the course of medical practice.

(2) Schedule III through V prescriptions may be refilled up to five times within six months after date of issuance.

(c) Electronic prescription. A practitioner is permitted to issue and to dispense an electronic controlled substance prescription only in accordance with the requirements of the Code of Federal Regulations, Title 21, Part 1311.

(d) Controlled Substance prescriptions may not be postdated.

§13.73. Exceptions to Use of Form.

(a) An official prescription form is not required for a medication order written for a patient who is admitted to a hospital at the time the medication order is written and filled.

(1) A practitioner may dispense or cause to be dispensed a Schedule II controlled substance to a patient who:

(A) is admitted to the hospital; and

(B) will require an emergency quantity of a controlled substance upon release from the hospital.

(2) Under paragraph (1) of this subsection, the controlled substance:

(A) may only be dispensed in a properly labeled container; and

(B) may not be more than a seven-day supply or the minimum amount needed for proper treatment of the patient until the patient can obtain access to a pharmacy, whichever is less.

(b) Subsection (a) of this section applies to a patient who is admitted to a hospital, including a patient:

(1) admitted to:

(A) a general hospital, special hospital, licensed ambulatory surgical center, surgical suite in a dental school, or veterinary medical school; or

(B) a hospital clinic or emergency room, if the clinic or emergency room is under the control, direction, and administration as an integral part of a general or special hospital;

(2) receiving treatment with a Schedule II controlled substance from a member of a Life Flight or similar medical team or an emergency medical ambulance crew or a paramedic-emergency medical technician operating as an extension of an emergency room of a general or special hospital; or

(3) receiving treatment with a Schedule II controlled substance while the patient is an inmate incarcerated in a correctional facility operated by the Texas Department of Criminal Justice or a correctional facility operating in accordance with the Health Services Plan adopted by the Texas Commission on Jail Standards.

(c) Subsection (a) of this section applies to an animal admitted to an animal hospital, including an animal that is a permanent resident of a zoo, wildlife park, exotic game ranch, wildlife management program, or state or federal research facility.

(d) An official prescription form is not required in a long-term care facility (LTCF) if:

(1) an individual administers the substance to an inpatient from the facility's medical emergency kit;

(2) the individual administering the substance is an authorized practitioner or an agent acting under the practitioner's order; and

(3) the facility maintains the proper records as required for an emergency medical kit in an LTCF.

(e) An official prescription form is not required when a therapeutic optometrist administers a topical ocular pharmaceutical agent in compliance with:

(1) the Texas Optometry Act; and

(2) a rule adopted by the Texas Optometry Board under the authority of the Texas Optometry Act.

§13.74. Pharmacy Responsibility - Generally.

(a) Upon receipt of a properly completed prescription form, a dispensing pharmacist must:

(1) if the prescription is for a Schedule II controlled substance, ensure the date the prescription is presented is not later than 21 days after the date of issuance;

(2) if multiple prescriptions are issued by the prescribing practitioner allowing up to a 90-day supply of Schedule II controlled substances, ensure each prescription is neither filled prior to the earliest date intended by the practitioner nor filled beyond 21 days from the earliest date the prescription may be filled;

(3) enter the date filled and the pharmacy prescription number;

(4) indicate whether the pharmacy dispensed to the patient a quantity less than the quantity prescribed; and

(5) if issued on an official prescription form, enter the following information, if different from the prescribing practitioner's information:

(A) the brand name or, if none, the generic name of the controlled substance dispensed; or

(B) the strength, quantity, and dosage form of the Schedule II controlled substance used to prepare the mixture or compound.

(b) The prescription presented for filling is void, and a new prescription is required, if:

(1) the prescription is for a Schedule II controlled substance, 21 days after issuance, or 21 days after any earliest fill date; or

(2) the prescription is for a Schedule III, IV, or V controlled substance, more than six months after issuance or has been filled five times during the six months after issuance.

§13.75. Pharmacy Responsibility - Electronic Reporting.

Within the time required by the Act, a pharmacy must submit to the department the following data elements from all filled controlled substance prescriptions:

(1) the prescribing practitioner's DEA registration number including the prescriber's identifying suffix of the authorizing hospital or other institution's DEA number when applicable;

(2) the official prescription form control number if filled from a written official prescription form, unless the prescription is electronic and meets the requirements of Code of Federal Regulations, Title 21, Part 1311;

(3) the department's designated placeholder entered into the control number field if the prescription is electronic;

(4) the patient's name, age or date of birth, and address including city, state, and zip code; or such information on the animal's owner if the prescription is for veterinarian services;

(5) the date the prescription was issued and filled;

(6) the NDC # of the controlled substance dispensed;

(7) the quantity of controlled substance dispensed;

(8) the pharmacy's prescription number; and

(9) the pharmacy's DEA registration number.

§13.76. Waiver from Electronic Reporting.

(a) If a pharmacy fills less than 15 prescriptions per month, the pharmacy may request from the department a waiver from electronic

reporting. If a waiver is granted, the pharmacy must file reportable prescriptions with the department on an approved form.

(b) If for technological reasons a pharmacy cannot meet the electronic reporting requirements, the pharmacy may request from the department a waiver from electronic reporting. The request must clearly describe the technological inadequacies of the pharmacy.

(c) The waiver must be requested annually, in writing.

(d) If granted, the waiver will remain in effect for no longer than 12 months, beginning the first day of the month following the month the waiver was granted.

(e) The department may rescind a waiver if the reason for the waiver no longer exists.

§13.77. Pharmacy Responsibility - Non-electronic Reporting.

(a) A pharmacy must comply with electronic reporting requirements of this chapter, unless the pharmacy has obtained a waiver from the department.

(b) Within the time required by the Act, a pharmacy approved for non-electronic reporting under this subchapter must submit the following information to the department on a form approved by the department:

(1) the information required under this chapter;

(2) the prescribing practitioner's name; and

(3) the dispensing pharmacy's name, address, and telephone number.

(c) The department expressly approves the following non-electronic reporting forms, if the form legibly provides all information required by subsection (b) of this section.

(1) A copy of an official prescription form, if issued for a Schedule II controlled substance.

(2) A copy of the prescription form, if issued for a Schedule III, IV, or V controlled substance.

(3) A printed computer record of the prescription.

§13.78. Pharmacy Responsibility - Oral, Telephonic, or Emergency Prescription.

(a) If a pharmacy dispenses a controlled substance pursuant to an orally or telephonically communicated prescription from a practitioner or the practitioner's designated agent, the prescription must be promptly reduced to writing, including the information required:

(1) by law for a standard prescription; and

(2) by law and this subchapter for an official prescription, if issued for a Schedule II controlled substance in an emergency situation.

(b) After dispensing a Schedule II controlled substance pursuant to an orally or telephonically communicated prescription, the dispensing pharmacy must:

(1) maintain the written record created under subsection (a) of this section;

(2) note the emergency nature of the prescription;

(3) upon receipt from the practitioner, attach the original official prescription to the orally or telephonically communicated prescription; and

(4) retain both documents in the pharmacy records.

(c) A pharmacy that dispenses Schedule III, IV, or V controlled substances pursuant to an orally or telephonically communicated pre-

scription must inform the prescribing practitioner in the event of an emergency refill of the prescription.

(d) All records generated under this section must be maintained for two years from the date the substance was dispensed.

§13.79. Pharmacy Responsibility - Modification of Prescription.

The pharmacy is responsible for documenting the following information regarding a modified prescription:

(1) date the change or adding of information was authorized;

(2) information that was authorized to be added or changed;

(3) name of the prescribing practitioner granting the authorization; and

(4) initials of the pharmacist.

§13.80. Pharmacy Responsibility - Out-of-State Practitioner.

(a) A Schedule II controlled substance prescription issued by a practitioner in another state not on the department's official prescription form may be filled if:

(1) the practitioner is authorized by the other state to prescribe the substance;

(2) the pharmacy has a plan approved by and on file with the department allowing the activity; and

(3) the pharmacy processes and submits the prescription according to the reporting requirements approved in the plan.

(b) The pharmacy may fill a prescription for a Schedule III through V controlled substance issued by a practitioner in another state if the practitioner is authorized by the other state to prescribe the substance.

§13.81. Return of Unused Official Prescription Form.

(a) An unused official prescription form is invalid and the practitioner or another person acting on behalf of the practitioner must return the unused form to the department with an appropriate explanation not later than the 30th day after the date:

(1) the practitioner's license to practice, Texas controlled substances registration number, or DEA number is canceled, revoked, suspended, denied, or surrendered or amended to exclude the handling of all Schedule II controlled substances; or

(2) the practitioner is deceased.

(b) An individual who is an institutional practitioner must return an unused official prescription form to the administrator of the hospital or other training institution upon completion or termination of the individual's training at the hospital or institution. The administrator must return an unused official prescription form to the department not later than the 30th day after the date the individual completes or terminates all training programs.

(c) No individual may continue to use an official prescription form issued under an institutional practitioner's permit number or similar number after the individual has been properly and individually licensed as a practitioner by the appropriate state health regulatory agency.

§13.82. Release of Prescription Data.

(a) All requests for the release of prescription data must be in writing.

(b) A person listed under §481.076(a)(3) of the Act must show proper need for the information when requesting the release of prescrip-

tion data. The showing of proper need is ongoing. The department will require the person to periodically submit a Return of Information report documenting use of the information and the status of the investigation or prosecution giving rise to the request.

§13.83. Schedule III through V Prescription Forms.

(a) A practitioner, as defined in the Act, §481.002(39)(A), (C), and (D), may use prescription forms ordered through individual sources or through an electronic prescription that includes the controlled substances registration number issued by the department and meets all requirements of the Act.

(b) If a written prescription form is to be used to prescribe a controlled substance the dispensing practitioner must be registered with the department and the DEA under both state and federal law to prescribe controlled substances.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2013.

TRD-201300752

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 424-5848



SUBCHAPTER F. APPLICATION

37 TAC §§13.131 - 13.137

The Texas Department of Public Safety (the department) proposes the repeal of §§13.131 - 13.137, concerning Application. The repeal of this subchapter is intended to reorganize and consolidate the rules governing the application requirements and procedures for registration under the Controlled Substances Act, Texas Health and Safety Code Chapter 481 and to generally improve the clarity of the related rules.

Denise Hudson, Assistant Director, Finance, has determined that for each year of the first five-year period the repeal is in effect there will be no fiscal implications for state or local government, or local economies.

Ms. Hudson has determined that there will be no adverse economic effect on small businesses or micro-businesses required to comply with the repeal as proposed. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed. There is no anticipated negative impact on local employment.

In addition, Ms. Hudson has also determined that for each year of the first five-year period the repeal is in effect, the public benefit anticipated as a result of enforcing the repeal will be to ensure to the public greater efficiency and accuracy in the reporting of prescription data of applications and greater compliance by registrants with the statutes and regulations pertaining to reporting prescriptions for controlled substances in this state.

The department has determined that this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or

reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

Comments on this proposal may be submitted to Steve Moninger, Office of Regulatory Counsel, Regulatory Services Division, Texas Department of Public Safety, P.O. Box 4087, MSC-0246, Austin, Texas 78752-0246, (512) 424-5842. Comments must be received no later than 30 days from the date of publication of this proposal.

The repeal is proposed pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Health and Safety Code, §481.003, which authorizes the department to adopt rules to enforce Chapter 481.

Texas Government Code, §411.004(3) and Texas Health and Safety Code, §481.003 are affected by this proposal.

§13.131. Subchapter Definitions.

§13.132. Application Requirements.

§13.133. Application Form and Content.

§13.134. Acceptance for Filing.

§13.135. Additional Information.

§13.136. Amendment or Withdrawal of Application.

§13.137. Modification.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 21, 2013.

TRD-201300749

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: April 7, 2013

For further information, please call: (512) 424-5848

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WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

TITLE 22. EXAMINING BOARDS

PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

CHAPTER 153. RULES RELATING TO PROVISIONS OF THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT

22 TAC §153.24

The Texas Appraiser Licensing and Certification Board withdraws the proposed amendment to §153.24 which appeared in

the November 30, 2012, issue of the *Texas Register* (37 TexReg 9427).

Filed with the Office of the Secretary of State on February 20, 2013.

TRD-201300741

Kerri T. Galvin

General Counsel

Texas Appraiser Licensing and Certification Board

Effective date: February 20, 2013

For further information, please call: (512) 936-3576



ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1. ADMINISTRATION

SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

10 TAC §1.23

The Texas Department of Housing and Community Affairs (the "Department") adopts amendments to 10 TAC Chapter 1, Administration, §1.23, concerning the State of Texas Low Income Housing Plan and Annual Report (SLIHP), without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10070). The section adopts by reference the 2013 SLIHP.

REASONED JUSTIFICATION. The purpose of the rule and referenced SLIHP is to fulfill the requirements of Texas Government Code §2306.072 and §2306.0723 and to serve as a comprehensive reference to statewide housing needs, housing resources, and strategies for funding allocations. The document reviews the Department's programs, current and future policies, resource allocation plan to meet state housing needs, and reports on State Fiscal Year 2012 performance.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS. The public comment period was open for the period of January 4, 2013, through February 4, 2013, and a public hearing was held on January 16, 2013. Public comments were accepted via public hearing, mail, email, and facsimile. No comments were received.

The TDHCA Governing Board approved the final SLIHP and the final order adopting this section at the February 21, 2013 Board meeting.

The full text of the final SLIHP may be viewed at the Department's website: www.tdhca.state.tx.us. The public may also receive a copy of the SLIHP by contacting the Department's Housing Resource Center at (512) 475-3976.

STATUTORY AUTHORITY. The amendments are adopted pursuant to the authority of Texas Government Code, Chapter 2306, which provides the Department with the authority to adopt rules governing the administration of the Department and its programs, and specifically §2306.0723, which requires the Department to adopt the report and plan using rulemaking process.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300866

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Effective date: March 17, 2013

Proposal publication date: December 28, 2012

For further information, please call: (512) 475-3916



TITLE 16. ECONOMIC REGULATION

PART 8. TEXAS RACING COMMISSION

CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

SUBCHAPTER A. RACETRACK LICENSES DIVISION 1. GENERAL PROVISIONS

16 TAC §309.1

The Texas Racing Commission adopts an amendment to 16 TAC §309.1, without changes to the proposed text as published in the January 4, 2013, issue of the *Texas Register* (38 TexReg 9) and will not be republished. The section relates to the requirements, duration, conditions and effect of acceptance of a racetrack license. The amendment removes the language stating that a racetrack license is perpetual and substitutes new language that conforms to the requirements of HB 2271, 82nd Regular Session.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Revised Civil Statutes Annotated, Article 179e, §3.02, which authorizes the Commission to adopt rules to administer the Act.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 22, 2013.

TRD-201300798



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 101. ASSESSMENT

The State Board of Education (SBOE) adopts amendments to §§101.1, 101.5, 101.25, 101.27, 101.33, and 101.101 and the repeal of §§101.7, 101.9, 101.11, 101.13, 101.21, 101.29, 101.61, 101.63, 101.65, 101.81, and 101.83, concerning student assessment. The amendments and repeals are adopted without changes to the proposed text as published in the December 7, 2012, issue of the *Texas Register* (37 TexReg 9582) and will not be republished. The sections address provisions relating to the state assessment program. The adopted amendments and repeals reflect changes in statute granting rulemaking authority to the commissioner of education by the Texas Legislature as necessary to implement the Texas Education Code (TEC), §§28.0211, 39.023, and 39.025.

In 2007, the 80th Texas Legislature enacted Senate Bill (SB) 1031, and in 2009, the 81st Texas Legislature enacted House Bill (HB) 3, both of which made significant changes to the Texas student assessment program and required the development and implementation of the State of Texas Assessments of Academic Readiness (STAAR) program. With HB 2135 in 2011, the 82nd Texas Legislature further modified assessment requirements for students who test above grade level. In response to SB 1031, HB 3, and HB 2135, the commissioner of education has adopted and amended rules as necessary to implement the legislative requirements for the assessment program. The commissioner rules include student testing requirements, grade advancement requirements, testing requirements for graduation, and accelerated instruction requirements.

According to the TEC, the SBOE is responsible for adopting rules related to the general establishment of the assessment program for purposes of accountability. This SBOE requirement is met through the following rules in 19 TAC Chapter 101, Assessment.

In Subchapter A, §101.1, Scope of Rules; §101.3, Policy; and §101.5(a), Student Testing Requirements, establish the assessment program and require all students receiving instruction in the Texas Essential Knowledge and Skills to be assessed.

In Subchapter B, §101.25, Schedule, specifies that the commissioner will adopt a schedule for administering the assessments and requires uniform administrative procedures.

The SBOE also has responsibility for the following.

Per the TEC, §39.023(e), Adoption and Administration of Instruments, the SBOE establishes a release test schedule in rule.

Under the TEC, §39.033, Voluntary Assessment of Private School Students, the SBOE approves the per-student costs for private schools that administer state assessments.

As authorized under the TEC, §39.026, Local Option, and the TEC, §39.032, Assessment Instrument Standards; Civil Penalty,

the SBOE rules govern the administration and renorming of local option group-administered assessments.

To align the SBOE rules in 19 TAC Chapter 101 with state law and ensure a clear delineation between SBOE and commissioner authority over the assessment program as clarified by the Office of Attorney General (OAG) Opinion No: JC-0478 and to eliminate possible contradictions between SBOE and commissioner rule in Texas Administrative Code, these rule actions adopt revisions to 19 TAC Chapter 101, Subchapters A-E. The adopted revisions also include necessary updates, clarifications, and conforming changes. Commissioner rules that replace the repealed SBOE rules where necessary are published in this issue.

Subchapter A, General Provisions

Section 101.1, Scope of Rules, was amended to update language to indicate the new assessments of academic readiness.

Section 101.5, Student Testing Requirements, was amended to remove subsections (b)-(d) relating to certain student populations. Specific student testing requirements stemming from the TEC, §§28.0211, 39.023, and 39.027, applicable to general education, special education, and English language learner student populations, have been established by the commissioner in 19 TAC Chapter 101, Subchapter AA, Commissioner's Rules Concerning the Participation of English Language Learners in State Assessments; Subchapter BB, Commissioner's Rules Concerning Grade Advancement and Accelerated Instruction; and Subchapter CC, Commissioner's Rules Concerning Implementation of the Academic Content Area Testing Program.

Section 101.7, Testing Requirements for Graduation, was repealed. Rulemaking authority for the STAAR program's assessment graduation requirements has been granted to the commissioner in the TEC, §39.025(a). The TEC, §39.025(f), also allows commissioner rulemaking concerning the transition to the STAAR. Commissioner's rules have been established in 19 TAC Chapter 101, Subchapters AA and CC.

Section 101.9, Grade Advancement Requirements, and §101.11, Remediation, were repealed. Since rulemaking authority for the Student Success Initiative (SSI) has been granted by the Texas Legislature to the commissioner in the TEC, §28.0211(k), commissioner rules for the SSI, including remediation requirements, have been established by the commissioner in 19 TAC Chapter 101, Subchapters BB and CC.

Section 101.13, Notice to Students and Parents, was repealed. The TEC, §39.025(f), requires the commissioner to adopt rules for the transition to end-of-course (EOC) testing, including the requirement of the TEC, §39.025(g), that students be notified of their graduation requirements by the beginning of Grade 8. Further, Grades 5 and 8 assessment promotion requirements fall under the commissioner's rulemaking authority as specified by the TEC, §28.0211(k), including notification of grade promotion requirements. Any other requirements for parental/student notification of mandated assessments falls under the commissioner's general rulemaking authority over the assessment program.

New commissioner rule, §101.3012, Parent Notification, addresses the required notification to students and parents of mandated assessments for grade promotion purposes, graduation, and any other state or federally required testing. The adoption of new §101.3012 is published in this issue.

Subchapter B, Development and Administration of Tests

As clarified by the OAG Opinion No: JC-0478, all aspects of test development and specific administration procedures, including allowable accommodations, are a commissioner responsibility. Accordingly, §101.21, Test Development, and §101.29, Accommodations, were repealed and §101.27, Administrative Procedures, was amended to remove subsections (a) and (c).

New commissioner rule, §101.3015, Test Development, addresses required educator, campus, and district participation in the test development process. The adoption of new §101.3015 is published in this issue.

Though allowable assessment accommodations are currently covered in appropriate state-developed test administrator manuals, new commissioner rule, §101.3013, Accommodations, addresses the requirement that districts provide appropriate accommodations. The adoption of new §101.3013 is published in this issue.

To comply with statutory requirements, the adoption includes the following changes to SBOE rules in 19 TAC Chapter 101, Subchapter B.

Section 101.25, Schedule, was amended to specify that the schedule for administering assessments be in compliance with the TEC, §39.023(c-3)(1) and (2), which states that Grades 3-8 assessments must be administered at least two weeks later than when the first of those assessments were administered in 2006-2007 and that the EOC assessments cannot be administered before the first full week in May, with the exception of English I-III.

Section 101.33, Release of Tests, was amended to clarify the release of field-test items.

Subchapter C, Security and Confidentiality

Sections 101.61, Security of Tests; 101.63, Confidentiality; and 101.65, Penalties, were repealed. As specified in the TEC, §§39.0301, 39.0302, and 39.0304, the security of assessments, investigations, issuance of subpoenas, and requiring necessary training activities to ensure a secure testing program are the responsibility of the commissioner and agency. Beginning in 2012, the commissioner adopted into rule the Test Security Supplement, which covers all aspects of training, security, and the handling of incident reporting. As allowed by the commissioner's general rulemaking authority, the agency intends to adopt into rule a Test Security Supplement for each subsequent school year.

Subchapter D, Scoring and Reporting

Section 101.81, Scoring and Reporting, and §101.83, National Comparative Data, were repealed. The TEC, §39.0231, Reporting Results of Certain Assessments, specifies that the agency ensure the prompt reporting of assessments required under the TEC, §28.0211. All further reporting requirements fall under the commissioner's general rulemaking authority to fully implement the assessment program, which includes the timely reporting of results to students and parents.

New commissioner rule, §101.3014, Scoring and Reporting, addresses the requirement of reporting of assessment results, with appropriate interpretations, to students and parents. Such reporting will be required to be in compliance with the confidentiality requirements of the TEC, §39.030. The adoption of new §101.3014 is published in this issue.

New commissioner rule, §101.3016, National Comparative Data, addresses the National Comparative Data Study. Authority for

conducting nationally comparative data studies is given to the state's assessment program by the TEC, §39.028. The adopted repeal of §101.83 aligns Texas Administrative Code with statute. The adoption of new §101.3016 is published in this issue.

Subchapter E, Local Option

Section 101.101, Group-Administered Tests, was amended to specify that the section applies only to assessments covered by this section and to update a reference to rules on test security and confidentiality.

The adopted amendments and repeals have no procedural and reporting requirements. The adopted amendments and repeals have no new locally maintained paperwork requirements.

The TEA determined that there is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

The SBOE took action to approve the amendments and repeals for second reading and final adoption during its February 1, 2013, meeting.

In accordance with the TEC, §7.102(f), the SBOE approved the amendments and repeals for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2013-2014 school year. The earlier effective date is necessary to allow the implementation of revisions to 19 TAC Chapter 101 during the 2012-2013 school year. The effective date for the revisions is 20 days after filing as adopted.

No public comments were received on the proposal.

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §101.1, §101.5

The amendments are adopted under the Texas Education Code (TEC), §§28.0211, 39.023, and 39.025, as amended and added by Senate Bill 103, 76th Texas Legislature, 1999; Senate Bill 1031, 80th Texas Legislature, 2007; and House Bill 3, 81st Texas Legislature, 2009, which grant specific rulemaking authority over the assessment program to the commissioner of education.

The amendments implement the TEC, §§28.0211, 39.023, and 39.025.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 22, 2013.

TRD-201300779

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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For further information, please call: (512) 475-1497



19 TAC §§101.7, 101.9, 101.11, 101.13

The repeals are adopted under the Texas Education Code (TEC), §§28.0211, 39.023, and 39.025, as amended and added by Senate Bill 103, 76th Texas Legislature, 1999; Senate Bill

1031, 80th Texas Legislature, 2007; and House Bill 3, 81st Texas Legislature, 2009, which grant specific rulemaking authority over the assessment program to the commissioner of education.

The repeals implement the TEC, §§28.0211, 39.023, and 39.025.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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SUBCHAPTER B. DEVELOPMENT AND ADMINISTRATION OF TESTS

19 TAC §101.21, §101.29

The repeals are adopted under the Texas Education Code (TEC), §§28.0211, 39.023, and 39.025, as amended and added by Senate Bill 103, 76th Texas Legislature, 1999; Senate Bill 1031, 80th Texas Legislature, 2007; and House Bill 3, 81st Texas Legislature, 2009, which grant specific rulemaking authority over the assessment program to the commissioner of education.

The repeals implement the TEC, §§28.0211, 39.023, and 39.025.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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19 TAC §§101.25, 101.27, 101.33

The amendments are adopted under the Texas Education Code (TEC), §§28.0211, 39.023, and 39.025, as amended and added by Senate Bill 103, 76th Texas Legislature, 1999; Senate Bill 1031, 80th Texas Legislature, 2007; and House Bill 3, 81st Texas Legislature, 2009, which grant specific rulemaking authority over the assessment program to the commissioner of education.

The amendments implement the TEC, §§28.0211, 39.023, and 39.025.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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SUBCHAPTER C. SECURITY AND CONFIDENTIALITY

19 TAC §§101.61, 101.63, 101.65

The repeals are adopted under the Texas Education Code (TEC), §§28.0211, 39.023, and 39.025, as amended and added by Senate Bill 103, 76th Texas Legislature, 1999; Senate Bill 1031, 80th Texas Legislature, 2007; and House Bill 3, 81st Texas Legislature, 2009, which grant specific rulemaking authority over the assessment program to the commissioner of education.

The repeals implement the TEC, §§28.0211, 39.023, and 39.025.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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SUBCHAPTER D. SCORING AND REPORTING

19 TAC §101.81, §101.83

The repeals are adopted under the Texas Education Code (TEC), §§28.0211, 39.023, and 39.025, as amended and added by Senate Bill 103, 76th Texas Legislature, 1999; Senate Bill 1031, 80th Texas Legislature, 2007; and House Bill 3, 81st Texas Legislature, 2009, which grant specific rulemaking authority over the assessment program to the commissioner of education.

The repeals implement the TEC, §§28.0211, 39.023, and 39.025.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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SUBCHAPTER E. LOCAL OPTION

19 TAC §101.101

The amendment is adopted under the Texas Education Code (TEC), §§28.0211, 39.023, and 39.025, as amended and added by Senate Bill 103, 76th Texas Legislature, 1999; Senate Bill 1031, 80th Texas Legislature, 2007; and House Bill 3, 81st Texas Legislature, 2009, which grant specific rulemaking authority over the assessment program to the commissioner of education.

The amendment implements the TEC, §§28.0211, 39.023, and 39.025.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING IMPLEMENTATION OF THE ACADEMIC CONTENT AREAS TESTING PROGRAM

DIVISION 1. IMPLEMENTATION OF ASSESSMENT INSTRUMENTS

19 TAC §§101.3011 - 101.3016

The Texas Education Agency (TEA) adopts an amendment to §101.3011 and new §§101.3012-101.3016, concerning student assessment. Section 101.3011 addresses implementation and administration of academic content area assessment instruments. The amendment and new sections are adopted

without changes to the proposed text as published in the December 14, 2012, issue of the *Texas Register* (37 TexReg 9730) and will not be republished. The adopted amendment to §101.3011 clarifies legislatively required changes to the state assessment program with the implementation of the State of Texas Assessments of Academic Readiness (STAAR) program. Additionally, the adopted amendment to §101.3011 defers the implementation of the 15% course grade requirement specified in the Texas Education Code (TEC), §39.023(c), from the 2012-2013 school year to the 2013-2014 school year. Adopted new §§101.3012-101.3016 reflect changes to 19 TAC Chapter 101, Assessment, due to statute granting rulemaking authority over the assessment program to the commissioner of education by the Texas Legislature as necessary.

At its meeting on February 1, 2013, the State Board of Education (SBOE) approved a series of revisions to 19 TAC Chapter 101, Assessment, Subchapters A-E, for second reading and final adoption. The revisions align SBOE rules in 19 TAC Chapter 101 with the TEC as the Texas Legislature granted rulemaking authority over the assessment program to the commissioner of education to implement the TEC, §§28.0211, 39.023, and 39.025. The revisions also ensure a clear delineation between SBOE and commissioner authority over the assessment program as clarified by the OAG Opinion No: JC-0478.

In response to the SBOE rules revisions, the adopted commissioner rule actions replace repealed SBOE rules where necessary. An additional amendment is also adopted to clarify assessment participation for students in Grades 3-8 who test above their enrolled grade level.

The adopted amendment to §101.3011, Implementation and Administration of Academic Content Area Assessment Instruments, specifies that a Grade 3-8 student will not participate in a grade-level assessment if the student is enrolled in a course or subject intended for students in a higher grade or is taking a course for high school credit and will be administered an assessment for that course or subject. The adopted amendment also states that a student is eligible to take an assessment instrument above his or her grade level only if the student is receiving instruction in the entire curriculum for that subject and, as specified by the TEC, §28.0211(p), a Grade 5 or 8 student being assessed above the enrolled grade in a subject may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument above the student's grade level.

As allowed by the TEC, §39.025(f), §101.3011 is also amended to be consistent with a concurrent amendment to the House Bill (HB) 3 Transition Plan to specify that the implementation date for the 15% course grade requirement begins in the 2013-2014 school year. This amendment to the HB 3 Transition Plan defers the implementation of this provision for an additional year, but does not prohibit districts from including end-of-course (EOC) assessments in a student's final course grade for the 2012-2013 school year should a district choose to do so.

Adopted new §101.3012, Parent Notification; §101.3013, Accommodations; §101.3014, Scoring and Reporting; §101.3015, Test Development; and §101.3016, National Comparative Data, incorporate into commissioner's rules provisions being repealed from SBOE rules.

Adopted new §101.3012, Parent Notification, retains provisions from SBOE rules for the required notification to students and parents of mandated assessments for grade promotion purposes, graduation, and any other state or federally required

testing. The TEC, §39.025(f), requires the commissioner to adopt rules for the transition to EOC testing, including the requirement of the TEC, §39.025(g), that students be notified of their graduation requirements by the beginning of Grade 8. Further, Grades 5 and 8 assessment promotion requirements fall under the commissioner's rulemaking authority as specified by the TEC, §28.0211(k), including notification of grade promotion requirements. Any other requirements for parental/student notification of mandated assessments fall under the commissioner's general rulemaking authority over the assessment program.

Adopted new §101.3013, Accommodations, retains provisions from SBOE rules related to accommodations. Though allowable assessment accommodations are currently covered in state-developed test administrator manuals, retained provisions from SBOE rules in commissioner rules require districts to provide appropriate accommodations.

Adopted new §101.3014, Scoring and Reporting, retains provisions from SBOE rules related to scoring and reporting as these requirements fall under the commissioner's general rulemaking authority to fully implement the assessment program. The adopted new rule requires the reporting of assessment results, with appropriate interpretations, to students and parents. Such reporting is required to be in compliance with the confidentiality requirements of the TEC, §39.030. The adopted rule also specifies that the agency ensure the prompt reporting of the Grades 5 and 8 Student Success Initiative assessments required under the TEC, §28.0211.

Adopted new §101.3015, Test Development, retains provisions from SBOE rules to require educator, campus, and district participation in the test development process. As specified by OAG Opinion No: JC-0478, test development requirements fall under the commissioner's general rulemaking authority to fully implement the assessment program, which includes construction of valid assessment instruments.

Adopted new §101.3016, National Comparative Data, retains provisions from SBOE rules to analyze national comparative data. Authority for conducting nationally comparative data studies is given to the state's assessment program by the TEC, §39.028.

The adopted amendment and new sections have no procedural implications beyond those that apply to all Texas students with respect to implementation of the state's assessment program. As the majority of the adopted rules are currently implemented by the SBOE, the adopted rule actions have minimal effect on the paperwork required and maintained by school districts, language proficiency assessment committees, and/or admission, review, and dismissal committees in making and tracking assessment and accommodation decisions for Texas students, parent notification, and test development.

The TEA has determined that there are no additional costs to persons or entities required to comply with the rule actions. Since a Grade 3-8 student will not participate in a grade-level assessment if the student is enrolled in a course or subject intended for students in a higher grade and will be administered an assessment for that course or subject, the agency will not have to double-test this population of students and will not have to produce special reports pertaining to above-grade-level testers, resulting in estimated cost savings of \$500,000 to the agency.

The TEA determined that there is no direct adverse economic impact for small businesses and microbusinesses; therefore,

no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

The public comment period on the proposal began December 14, 2012, and ended January 14, 2013. Following is a summary of the public comments received and the corresponding agency responses regarding proposed revisions to 19 TAC Chapter 101, Assessment, Subchapter CC, Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program, Division 1, Implementation of Assessment Instruments.

Comment: The Texas Classroom Teachers Association (TCTA) commented in support of the clarification in 19 TAC §101.3011(a) to prohibit the grade-level testing in a subject for those students taking above-grade-level coursework and the corresponding end-of-course assessment in the same subject area. TCTA also expressed support for the deferral of the 15% course grade requirement for the current school year.

Agency Response: The agency agrees.

Comment: An individual suggested that the administration of grade-level assessments should continue to be a local decision. The individual also suggested that districts should be allowed to conduct annual assessments of teachers and that principals and counselors should be required to provide student-level information to local law enforcement officials to gauge the status of at-risk youth.

Agency Response: The agency disagrees that the administration of grade-level assessments should be determined locally. In accordance with the TEC, §39.023(a-2), students taking above-grade-level coursework and who will be administered the corresponding assessment cannot be required to take a grade-level assessment in the same subject area. Also, for those students taking above-grade-level coursework and the corresponding end-of-course assessment in the same subject area, a grade-level assessment may not be an appropriate measure of student learning, nor is the agency budget funded to allow for the double-testing of this student population.

The commenter's suggestions relating to the assessment of teachers and the sharing of student-level information with local law enforcement are outside the scope of the current rule proposal.

Comment: An individual noted difficulties with developing a system that will address all concerns but requested that the process be streamlined to make it more parent and student friendly. The individual also requested that the TEA consider postponing the implementation of the new accountability system.

Agency Response: The agency provides the following clarification. The adopted revisions ensure that the assessment requirements are clearly defined for students, school districts, and the public. The adopted revisions also clarify specific provisions relating to participation in grade-level assessments and defer the implementation of the 15% course grade requirement to the 2013-2014 school year. The commenter's request to postpone the implementation of the new accountability system is outside the scope of the current rule proposal.

The amendment and new sections are adopted under the Texas Education Code (TEC), §7.021, which authorizes the agency to administer and monitor compliance with education programs required by federal or state law; the TEC, §28.0211, which authorizes the commissioner to adopt rules as necessary to implement provisions relating to the Student Success Initiative, including notification of grade promotion requirements; the TEC, §39.023,

which authorizes the agency to adopt assessment instruments for Grades 3-8 and end-of-course assessment instruments for secondary-level courses identified in the TEC, §39.023(c); the TEC, §39.0231, which requires the agency to ensure the timely scoring and reporting of results of assessment instruments. Assessment reporting is required to be in compliance with confidentiality requirements of the TEC, §39.030; the TEC, §39.025, which authorizes the commissioner to adopt rules concerning end-of-course participation and performance requirements for high school graduation. In addition, the TEC, §39.025(f), authorizes the commissioner to adopt by rule a transition plan to implement the amendments made by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007, replacing general subject assessment instruments administered at the high school level with end-of-course assessment instruments; and the TEC, §39.028, which requires a comparison of state assessment results to national results.

The amendment and new sections implement the TEC, §§7.021, 28.0211, 39.023, 39.0231, 39.025, and 39.028.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 22, 2013.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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For further information, please call: (512) 475-1497



TITLE 22. EXAMINING BOARDS

PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

CHAPTER 155. RULES RELATING TO STANDARDS OF PRACTICE

22 TAC §155.2

The Texas Appraiser Licensing and Certification Board (TALCB) adopts new §155.2 concerning Work Relating to Property Tax Protests without changes to the rule as published in the November 30, 2012, issue of the *Texas Register* (37 TexReg 9428). The new rule is adopted to clarify when the Uniform Standards of Professional Appraisal Practice (USPAP) apply to work prepared by TALCB licensees for the purposes of a property tax protest and require disclosure by TALCB licensees that are dually licensed or certified as property tax consultants, whenever they perform work for the purposes of a property tax protest under their authority as a property tax consultant.

Two comments were received on the rule as proposed. One written comment was received from an appraiser association that was in support of the adoption of the rule as published. The other comment was made at the meeting by an individual who

was concerned about the lack of consistency with uniform and equal reports. He did not specifically comment on the rule. The reasoned justification for the rule is conformity amongst different statutory provisions, clarity for licensees and disclosure for consumers.

The new rule is adopted under Texas Occupations Code, §1103.154, which authorizes the Texas Appraiser Licensing and Certification Board to adopt rules relating to the professional conduct of a licensed or certified appraiser.

The statute affected by this new rule is Texas Occupations Code, Chapter 1103. No other statute, code or article is affected by the new rule.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-201300803

Kerri T. Galvin

General Counsel

Texas Appraiser Licensing and Certification Board

Effective date: March 14, 2013

Proposal publication date: November 30, 2012

For further information, please call: (512) 936-3576



CHAPTER 157. RULES RELATING TO PRACTICE AND PROCEDURE SUBCHAPTER B. CONTESTED CASE HEARINGS

22 TAC §157.10

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to §157.10 concerning Right to Counsel; Right to Participate without changes to the rule as published in the November 30, 2012, issue of the *Texas Register* (37 TexReg 9429). The amendments are adopted to clarify who is responsible for the cost of hearing transcripts when ordered by a party or an Administrative Law Judge.

No comments were received on the rule as proposed. The reasoned justification for the amendment is to alleviate confusion and additional negotiations over who should be the responsible party and to avoid unnecessary duplication of costs.

The amendments are adopted under Texas Occupations Code, §1103.151 and §1104.051, which authorize the Texas Appraiser Licensing and Certification Board to adopt rules necessary for certifying or licensing an appraiser and administering the provisions of Chapter 1104 regarding appraisal management companies and §1103.512 regarding Record of Proceedings.

The statutes affected by this amendment are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code or article is affected by the amendments.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-201300804

Kerri T. Galvin

General Counsel

Texas Appraiser Licensing and Certification Board

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For further information, please call: (512) 936-3576



PART 15. TEXAS STATE BOARD OF PHARMACY

CHAPTER 291. PHARMACIES

SUBCHAPTER B. COMMUNITY PHARMACY (CLASS A)

22 TAC §291.31

The Texas State Board of Pharmacy adopts amendments to §291.31, concerning Definitions. The amendments are adopted without changes to the proposed text as published in the December 14, 2012, issue of the *Texas Register* (37 TexReg 9733).

The amendments add definitions for automated checking device, beyond use date, dispensing error, and patient med-pak which were defined elsewhere in the rules but not in the definitions; clarify the definition of electronic prescription drug order to be consistent with DEA requirements; and update definitions to be consistent with other rules.

No comments were received.

The amendments are adopted under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300851

Gay Dodson, R.Ph.

Executive Director/Secretary

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8028



22 TAC §291.32

The Texas State Board of Pharmacy adopts amendments to §291.32 concerning Personnel. The amendments are adopted without changes to the proposed text as published in the December 14, 2012, issue of the *Texas Register* (37 TexReg 9736).

The amendments add the task of verifying that controlled substances listed on invoices are received by initial and date of receipt to the pharmacist's duties; and correct grammar.

No comments were received.

The amendments are adopted under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 25, 2013.

TRD-201300852

Gay Dodson, R.Ph.

Director/Secretary

Texas State Board of Pharmacy

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Proposal publication date: December 14, 2012

For further information, please call: (512) 305-8028



CHAPTER 295. PHARMACISTS

22 TAC §295.8

The Texas State Board of Pharmacy adopts amendments to §295.8 concerning Continuing Education Requirements. The amendments are adopted with changes to the proposed text published in the December 14, 2012, issue of the *Texas Register* (37 TexReg 9737).

The amendments update the definitions to include CPE Monitor and to be consistent with ACPE definitions; remove references to requirements regarding pharmacists licensed for 50 years that are not needed; allow pharmacists to receive credit for CME courses; and require pharmacists to obtain at least one hour of CE in Texas pharmacy law. The Board changed the implementation date for the requirement for pharmacists to obtain one hour of CE in Texas pharmacy laws from January 1, 2014, to January 1, 2015.

No comments were received.

The amendments are adopted under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§295.8. Continuing Education Requirements.

(a) Authority and purpose.

(1) Authority. In accordance with §559.053 of the Texas Pharmacy Act, (Chapters 551 - 566, and 568 - 569, Occupations Code), all pharmacists must complete and report 30 contact hours (3.0 CEUs) of approved continuing education obtained during the previous license period in order to renew their license to practice pharmacy.

(2) Purpose. The board recognizes that the fundamental purpose of continuing education is to maintain and enhance the professional competency of pharmacists licensed to practice in Texas, for the protection of the health and welfare of the citizens of Texas.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) ACPE--Accreditation Council for Pharmacy Education.

(2) Act--The Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Occupations Code.

(3) Approved programs--Live programs, home study, and other mediated instruction delivered by an approved provider or a program specified by the board and listed as an approved program in subsection (e) of this section.

(4) Approved provider--An individual, institution, organization, association, corporation, or agency that is approved by the board.

(5) Board--The Texas State Board of Pharmacy.

(6) Certificate of completion--A certificate or other official document presented to a participant upon the successful completion of an approved continuing education program.

(7) Contact hour--A unit of measure of educational credit which is equivalent to approximately 60 minutes of participation in an organized learning experience.

(8) Continuing education unit (CEU)--A unit of measure of education credit which is equivalent to 10 contact hours (i.e., one CEU = 10 contact hours).

(9) CPE Monitor--A collaborative service from the National Association of Boards of Pharmacy and ACPE that provides an electronic system for pharmacists to track their completed CPE credits.

(10) Credit hour--A unit of measurement for continuing education equal to 15 contact hours.

(11) Enduring Materials (Home Study)--Activities that are printed, recorded or computer assisted instructional materials that do not provide for direct interaction between faculty and participants.

(12) Initial license period--The time period between the date of issuance of a pharmacist's license and the next expiration date following the initial 30 day expiration date.

(13) License period--The time period between consecutive expiration dates of a license.

(14) Live programs--Activities that provide for direct interaction between faculty and participants and may include lectures, symposia, live teleconferences, workshops, etc.

(15) Standardized pharmacy examination--The North American Pharmacy Licensing Examination (NAPLEX).

(c) Methods for obtaining continuing education. A pharmacist may satisfy the continuing education requirements by either:

(1) successfully completing the number of continuing education hours necessary to renew a license as specified in subsection (a)(1) of this section;

(2) successfully completing during the preceding license period, one credit hour for each year of their license period, which is a part of the professional degree program in a college of pharmacy the professional degree program of which has been accredited by ACPE; or

(3) taking and passing the standardized pharmacy examination (NAPLEX) during the preceding license period, which shall be equivalent to the number of continuing education hours necessary to renew a license as specified in subsection (a)(1) of this section.

(d) Reporting Requirements.

(1) Renewal of a pharmacist license. To renew a license to practice pharmacy, a pharmacist must report on the renewal application completion of at least thirty contact hours (3.0 CEUs) of continuing education. The following is applicable to the reporting of continuing education contact hours.

(A) For renewals received after January 1, 2015, at least one contact hour (0.1 CEU) specified in paragraph (1) of this subsection shall be related to Texas pharmacy laws or rules.

(B) Any continuing education requirements which are imposed upon a pharmacist as a part of a board order or agreed board order shall be in addition to the requirements of this section.

(2) Failure to report completion of required continuing education. The following is applicable if a pharmacist fails to report completion of the required continuing education.

(A) The license of a pharmacist who fails to report completion of the required number of continuing education contact hours shall not be renewed and the pharmacist shall not be issued a renewal certificate for the license period until such time as the pharmacist successfully completes the required continuing education and reports the completion to the board.

(B) A pharmacist who practices pharmacy without a current renewal certificate is subject to all penalties of practicing pharmacy without a license including the delinquent fees specified in the Act, §559.003.

(3) Extension of time for reporting. A pharmacist who has had a physical disability, illness, or other extenuating circumstances which prohibits the pharmacist from obtaining continuing education credit during the preceding license period may be granted an extension of time to complete the continued education requirement. The following is applicable for this extension:

(A) The pharmacist shall submit a petition to the board with his/her license renewal application which contains:

(i) the name, address, and license number of the pharmacist;

(ii) a statement of the reason for the request for extension;

(iii) if the reason for the request for extension is health related, a statement from the attending physician(s) treating the pharmacist which includes the nature of the physical disability or illness and the dates the pharmacist was incapacitated; and

(iv) if the reason for the request for the extension is for other extenuating circumstances, a detailed explanation of the extenuating circumstances and if because of military deployment, documentation of the dates of the deployment.

(B) After review and approval of the petition, a pharmacist may be granted an extension of time to comply with the continuing education requirement which shall not exceed one license renewal period.

(C) An extension of time to complete continuing education credit does not relieve a pharmacist from the continuing education requirement during the current license period.

(D) If a petition for extension to the reporting period for continuing education is denied, the pharmacist shall:

(i) have 60 days to complete and report completion of the required continuing education requirements; and

(ii) be subject to the requirements of paragraph (2) of this subsection relating to failure to report completion of the required continuing education if the required continuing education is not completed and reported within the required 60-day time period.

(4) Exemptions from reporting requirements.

(A) All pharmacists licensed in Texas shall be exempt from the continuing education requirements during their initial license period.

(B) Pharmacists who are not actively practicing pharmacy shall be granted an exemption to the reporting requirements for continuing education provided the pharmacists submit a completed renewal application for each license period which states that they are not practicing pharmacy. Upon submission of the completed renewal application, the pharmacist shall be issued a renewal certificate which states that pharmacist is inactive. Pharmacists who wish to return to the practice of pharmacy after being exempted from the continuing education requirements as specified in this subparagraph must:

(i) notify the board of their intent to actively practice pharmacy;

(ii) pay the fee as specified in §295.9 of this title (relating to Inactive License); and

(iii) provide copies of completion certificates from approved continuing education programs as specified in subsection (e) of this section for 30 contact hours (3.0 CEUs). Approved continuing education earned within two years prior to the licensee applying for the return to active status may be applied toward the continuing education requirement for reactivation of the license but may not be counted toward subsequent renewal of the license.

(e) Approved Programs.

(1) Any program presented by an ACPE approved provider subject to the following conditions.

(A) Pharmacists may receive credit for the completion of the same ACPE course only once during a license period.

(B) Pharmacists who present approved ACPE continuing education programs may receive credit for the time expended during the actual presentation of the program. Pharmacists may receive credit for the same presentation only once during a license period.

(C) Proof of completion of an ACPE course shall contain the following information:

(i) name of the participant;

(ii) title and completion date of the program;

(iii) name of the approved provider sponsoring or cosponsoring the program;

(iv) number of contact hours and/or CEUs awarded;

(v) the assigned ACPE universal program number and a "P" designation indicating that the CE is targeted to pharmacists; and

(vi) either:

(I) a dated certifying signature of the approved provider and the official ACPE logo; or

(II) the CPE Monitor logo.

(2) Courses which are part of a professional degree program or an advanced pharmacy degree program offered by a college of pharmacy which has a professional degree program accredited by ACPE.

(A) Pharmacists may receive credit for the completion of the same course only once during a license period.

(B) Pharmacists who teach these courses may receive credit towards their continuing education, but such credit may be received only once for teaching the same course during a license period.

(3) Basic cardiopulmonary resuscitation (CPR) courses which lead to CPR certification by the American Red Cross or the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacists may receive credit for one contact hour (0.1 CEU) towards their continuing education requirement for completion of a CPR course only once during a license period. Proof of completion of a CPR course shall be the certificate issued by the American Red Cross or the American Heart Association or its equivalent.

(4) Advanced cardiovascular life support courses (ACLS) or pediatric advanced life support (PALS) courses which lead to initial ACLS or PALS certification by the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacists may receive credit for twelve contact hours (1.2 CEUs) towards their continuing education requirement for completion of an ACLS or PALS course only once during a license period. Proof of completion of an ACLS or PALS course shall be the certificate issued by the American Heart Association or its equivalent.

(5) Advanced cardiovascular life support courses (ACLS) or pediatric advanced life support (PALS) courses which lead to ACLS or PALS recertification by the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacists may receive credit for four contact hours (0.4 CEUs) towards their continuing education requirement for completion of an ACLS or PALS recertification course only once during a license period. Proof of completion of an ACLS or PALS recertification course shall be the certificate issued by the American Heart Association or its equivalent.

(6) Attendance at Texas State Board of Pharmacy Board Meetings shall be recognized for continuing education credit as follows.

(A) Pharmacists shall receive credit for three contact hours (0.3 CEUs) towards their continuing education requirement for attending a full, public board business meeting in its entirety.

(B) A maximum of six contact hours (0.6 CEUs) are allowed for attendance at a board meeting during a license period.

(C) Proof of attendance for a complete board meeting shall be a certificate issued by the Texas State Board of Pharmacy.

(7) Participation in a Texas State Board of Pharmacy appointed Task Force shall be recognized for continuing education credit as follows.

(A) Pharmacists shall receive credit for three contact hours (0.3 CEUs) towards their continuing education requirement for participating in a Texas State Board of Pharmacy appointed Task Force.

(B) Proof of participation for a Task Force shall be a certificate issued by the Texas State Board of Pharmacy.

(8) Attendance at programs presented by the Texas State Board of Pharmacy or courses offered by the Texas State Board of Pharmacy as follows:

(A) Pharmacists shall receive credit for the number of hours for the program or course as stated by the Texas State Board of Pharmacy.

(B) Proof of attendance at a program presented by the Texas State Board of Pharmacy or completion of a course offered by the Texas State Board of Pharmacy shall be a certificate issued by the Texas State Board of Pharmacy.

(9) Pharmacists shall receive credit toward their continuing education requirements for programs or courses approved by other state boards of pharmacy as follows:

(A) Pharmacists shall receive credit for the number of hours for the program or course as specified by the other state board of pharmacy.

(B) Proof of attendance at a program or course approved by another state board of pharmacy shall be a certificate or other documentation that indicates:

- (i) name of the participant;
- (ii) title and completion date of the program;
- (iii) name of the approved provider sponsoring or cosponsoring the program;
- (iv) number of contact hours and/or CEUs awarded;
- (v) a dated certifying signature of the provider; and
- (vi) documentation that the program is approved by the other state board of pharmacy.

(10) Completion of an Institute for Safe Medication Practices' (ISMP) Medication Safety Self Assessment for hospital pharmacies or for community/ambulatory pharmacies shall be recognized for continuing education credit as follows.

(A) Pharmacists shall receive credit for three contact hours (0.3 CEUs) towards their continuing education requirement for completion of an ISMP Medication Safety Self Assessment.

(B) Proof of completion of an ISMP Medication Safety Self Assessment shall be:

- (i) a continuing education certificate provided by an ACPE approved provider for completion of an assessment; or
- (ii) a document from ISMP showing completion of an assessment.

(11) Pharmacists shall receive credit for three contact hours (0.3 CEUs) toward their continuing education requirements for taking and successfully passing the initial Geriatric Pharmacy Practice certification examination administered by the Commission for Certification

in Geriatric Pharmacy. Proof of successfully passing the examination shall be a certificate issued by the Commission for Certification in Geriatric Pharmacy.

(12) Pharmacist shall receive credit for three contact hours (0.3 CEUs) toward their continuing education requirements for taking and successfully passing an initial Board of Pharmaceutical Specialties certification examination administered by the Board of Pharmaceutical Specialties. Proof of successfully passing the examination shall be a certificate issued by the Board of Pharmaceutical Specialties.

(13) Programs approved by the American Medical Association (AMA) as Category 1 Continuing Medical Education (CME) and accredited by the Accreditation Council for Continuing Medical Education subject to the following conditions.

(A) Pharmacists may receive credit for the completion of the same CME course only once during a license period.

(B) Pharmacists who present approved CME programs may receive credit for the time expended during the actual presentation of the program. Pharmacists may receive credit for the same presentation only once during a license period.

(C) Proof of completion of a CME course shall contain the following information:

- (i) name of the participant;
 - (ii) title and completion date of the program;
 - (iii) name of the approved provider sponsoring or cosponsoring the program;
 - (iv) number of contact hours and/or CEUs awarded;
- and
- (v) a dated certifying signature of the approved provider.

(f) Retention of continuing education records and audit of records by the board.

(1) Retention of records. Pharmacists are required to maintain certificates of completion of approved continuing education for three years from the date of reporting the contact hours on a license renewal application. Such records may be maintained in hard copy or electronic format.

(2) Audit of records by the board. The board shall audit the records of pharmacists for verification of reported continuing education credit. The following is applicable for such audits.

(A) Upon written request, a pharmacist shall provide to the board documentation of proof for all continuing education contact hours reported during a specified license period(s). Failure to provide all requested records during the specified time period constitutes prima facie evidence of failure to keep and maintain records and shall subject the pharmacist to disciplinary action by the board.

(B) Credit for continuing education contact hours shall only be allowed for approved programs for which the pharmacist submits documentation of proof reflecting that the hours were completed during the specified license period(s). Any other reported hours shall be disallowed. A pharmacist who has received credit for continuing education contact hours disallowed during an audit shall be subject to disciplinary action.

(C) A pharmacist who submits false or fraudulent records to the board shall be subject to disciplinary action by the board.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 25, 2013.

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Gay Dodson, R.Ph.

Executive Director/Secretary

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8028



PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

CHAPTER 461. GENERAL RULINGS

22 TAC §461.35

The Texas State Board of Examiners of Psychologists adopts an amendment to §461.35, concerning Use of Historically Underutilized Businesses (HUBs), without changes to the proposed text published in the November 23, 2012, issue of the *Texas Register* (37 TexReg 9247) and will not be republished.

The amendment is being adopted to ensure the protection and safety of the public.

The amendment as adopted would comply with Texas Government Code Annotated §2161.003 and corrects the outdated reference to the General Service Commission rules.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

Executive Director

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For further information, please call: (512) 305-7706



CHAPTER 463. APPLICATIONS AND EXAMINATIONS

22 TAC §463.5

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.5, concerning Application File Requirements, without changes to the proposed text published in the November 23, 2012, issue of the *Texas Register* (37 TexReg 9247) and will not be republished.

The amendment is being adopted to ensure the protection and safety of the public.

The amendment as adopted would specify a reasonable time frame for reference letters submitted as part of the application process.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

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For further information, please call: (512) 305-7706



22 TAC §463.15

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.15, concerning Oral Examination, without changes to the proposed text published in the November 23, 2012, issue of the *Texas Register* (37 TexReg 9248) and will not be republished.

The amendment is being adopted to ensure the protection and safety of the public.

The amendment is adopted because membership in the National Register does not ensure sufficient training or competency to the same level or degree as the other listed waivers.

General comments were received regarding the adoption of the amendment.

Comment

A total of 9 comments were received by the Board. All of the individuals submitting comments indicated generally that the exemption from the oral exam requirement provided by the Health Service Provider (HSP) credential functioned as an important mechanism to expedite the licensing process in Texas for individuals licensed to independently practice psychology in other states and should not be deleted. Several of the comments went on to state that because of the criteria required to obtain

the HSP credential, those with the credential have the same or substantially the same level of competency as those individuals exempted from the oral examination under the rule's other exceptions. Furthermore, some of the comments also indicated that the limited number of oral exams administered each year, coupled with the financial hardships that prospective licensees and their employers would suffer as a result of deleting the HSP exemption, would negatively affect the ability to attract qualified professionals to Texas. Lastly, some of the comments indicated generally that the national trend was moving away from requiring an oral exam.

Response

Although the Board's licensing rules do share some common elements with the requirements for the HSP credential, there are several key differences which represent a risk to the public in terms of training and competency. First, the National Register allows for the 1,500 hours of postdoctoral supervised experience required for the credential to be obtained within a four-year time period, whereas the Board requires a total of two years supervised experience, i.e., internship and postdoctoral, be completed in no more than three years. The Board believes that supervised experience should be obtained within a reasonable period of time to aid in the progression and development of the professional skills necessary to successfully and safely practice psychology. The Board does not believe that allowing an individual to obtain postdoctoral supervised experience over a period of four years is appropriate, nor does it protect the public from the natural degradation of skills and knowledge that can occur when not regularly utilized. Second, according to the National Register's *Guidelines for Supervised Postdoctoral Experience*, supervisors must only be licensed for practice in their respective professions, whereas the Board specifically requires that supervised experience take place under the supervision of a licensed psychologist. While several other professions render psychotherapeutic services, the Board believes an individual seeking to engage in the independent practice of psychology should be supervised by a licensed psychologist when acquiring supervised experience, thereby ensuring the public is adequately protected. The Board also believes that a supervisor governed by the same laws as the supervisee upon licensure ensures a familiarity with the laws and standards applicable to psychologists and avoids the potential for confusion as to what laws or standards govern the provision of psychological services. Finally, the Board must promulgate rules that afford reasonable measures of protection for the public, and the Board does not believe the HSP credential affords the same level of protection to the public as the other exemptions set forth in §463.15(c). Regardless of national trends, the Board is tasked with administering an oral exam and exempting from that exam only those individuals who, in the Board's judgment, have demonstrated competence in the areas covered by the examination. Based in part upon the foregoing reasons, the Board believes that the potential for harm arising out of the HSP exemption from the oral exam outweighs those concerns articulated in the public comments. Additionally, the Board does not believe it to be punitive or unreasonably burdensome to require an out-of-state applicant with less than five years of independent practice experience to sit for a one-hour oral examination designed to ensure adequate knowledge of the discipline and profession of psychology. While it is unfortunate that the oral exam is only offered twice each year, this is a reality dictated by the Board's budget, not a discretionary decision made by the Board. Therefore, based upon the foregoing, the Board declines to withdraw the proposed amendment to §463.15.

The amendment is adopted under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-201300739

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

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For further information, please call: (512) 305-7706



CHAPTER 465. RULES OF PRACTICE

22 TAC §465.22

The Texas State Board of Examiners of Psychologists adopts an amendment to §465.22, concerning Psychological Records, Test Data and Test Protocols, without changes to the proposed text published in the September 14, 2012, issue of the *Texas Register* (37 TexReg 7264) and will not be republished.

The amendment is being adopted to ensure the protection and safety of the public.

The amendment as adopted would reduce the length of time that licensees are required to maintain mental health records to a comparable period of time shared by other regulated health professions thereby reducing the record keeping burden on licensees.

A general comment was received regarding the adoption of the amendment.

Comment

The individual requests that the Board amend the proposed rule so that it applies retroactively in addition to prospectively. The individual suggested that the proposed amendment, as written, would apply to those records generated after the amended document retention period takes effect.

Response

The Board declines to amend the rule as requested because such an amendment is not necessary. The amended rule does not have to be made retroactive because the language of the amended rule necessarily encompasses those records being maintained by a licensee upon its effective date. Stated another way, those records being maintained upon the effective date of this amended rule need only to maintain according to the retention schedule of the amended rule. The Board further declines to amend the proposed rule as suggested because such an amendment could serve to excuse any violation of the record retention schedule found in §465.22 that took place prior to the effective date of the adopted amendment, and such is not the Board's intent.

The amendment is adopted under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-201300709

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

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For further information, please call: (512) 305-7706



22 TAC §465.38

The Texas State Board of Examiners of Psychologists adopts an amendment to §465.38, concerning Psychological Services for Public Schools, without changes to the proposed text published in the October 5, 2012, issue of the *Texas Register* (37 TexReg 7846) and will not be republished.

The amendment is being adopted to ensure the protection and safety of the public.

The amendment as adopted would clarify that Licensed Specialists in School Psychology may only provide psychological services in the public schools and may not practice independently in any setting outside of the public schools.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-201300710

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

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For further information, please call: (512) 305-7706



CHAPTER 469. COMPLAINTS AND ENFORCEMENT

22 TAC §469.1

The Texas State Board of Examiners of Psychologists adopts an amendment to §469.1, concerning Timeliness of Complaints, without changes to the proposed text published in the October 5, 2012, issue of the *Texas Register* (37 TexReg 7847) and will not be republished.

The amendment is being adopted to ensure the protection and safety of the public.

The amendment as adopted would ensure that the time period for alleging a violation of a Board rule does not exceed the records retention period.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

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For further information, please call: (512) 305-7706



CHAPTER 473. FEES

22 TAC §473.2

The Texas State Board of Examiners of Psychologists adopts an amendment to §473.2, concerning Examination Fees (Not Refundable), without changes to the proposed text published in the November 23, 2012, issue of the *Texas Register* (37 TexReg 9249) and will not be republished.

The amendment is being adopted to ensure the protection and safety of the public.

The amendment as adopted is necessary to ensure the Board's rule comports with ASPPB's increased exam fee for the EPPP set to take effect on March 1, 2013.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Occupations Code, Title 3, Subtitle I, Chapter 501, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this

State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

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For further information, please call: (512) 305-7706



PART 38. TEXAS MIDWIFERY BOARD

CHAPTER 831. MIDWIFERY

The Texas Midwifery Board (board), with the approval of the Executive Commissioner of the Texas Health and Human Services Commission, adopts amendments to §§831.1 - 831.4, 831.7, 831.11 - 831.17, 831.20 - 831.24, 831.31 - 831.37, 831.40, 831.51, 831.52, 831.57, 831.58, 831.60, 831.65, 831.70, 831.75, 831.101, 831.111, 831.121, 831.131, 831.141, and 831.161 - 831.174; new §831.25; and the repeal of §831.54, concerning the licensing and regulation of midwives, without changes to the proposed text as published in the August 17, 2012, issue of the *Texas Register* (37 TexReg 6235) and, therefore, the sections will not be republished.

BACKGROUND AND PURPOSE

Government Code, §2001.039, requires that each state agency review and consider for readoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Chapter 831 has been reviewed and the board has determined that reasons for adopting the sections continue to exist because rules on this subject are needed. The board has also adopted the repeal of §831.54 to eliminate redundant language and ensure uniform standards for midwifery practice in accordance with other existing sections.

The amendments, new rule, and repeal constitute the agency review of rules required by Government Code, §2001.039, and implement Senate Bill 1733 of the 82nd Legislature, Regular Session, 2011, which amends Occupations Code, Chapter 55, relating to the licensing of military spouses and has added new §831.25 concerning military spouses. The review of the sections clarifies and updates the rules, and the removal of obsolete language ensures consistency among the sections.

SECTION-BY-SECTION SUMMARY

Amendments to §831.1 add the text "licensing military spouses" in the description of the rules which is the name of the new §821.25; and remove "protocols" consistent with the repeal of §831.54.

Amendments to §831.2 include wording changes consistent with existing language at §831.65 and also reflect the name change of the Texas Medical Board, which was previously known as the Texas Board of Medical Examiners.

Amendments to §831.3 remove unnecessary wording related to the citation for the Texas Midwifery Act, Occupations Code, Chapter 203 (the "Act") and add the word "unexcused" to clarify that excused absences are not counted as grounds for membership termination by the board.

Amendments to §831.4 reflect that board member training already includes board policies training.

The amendment to §831.7 reflects the current mailing address of the board.

The amendment to §831.11 removes obsolete language related to the transition from one-year to two-year license terms.

Amendments to §831.12 remove obsolete language related to the transition from one type of late fee to another and add a new \$20 fee for the issuance of a duplicate license.

Amendments to §§831.13 - 831.17, 831.22, and 831.24 reflect revision to the titles of the respective sections or new section names.

The amendment to §831.20 removes a reference to "protocols" consistent with the repeal of §831.54.

Amendments to §831.21 clarify that the board may refuse to issue a renewal license to a midwife based on a criminal conviction.

Amendments to §831.23 reflect current licensing practices by clarifying the section title and making corresponding changes to clarify that a denied or revoked license may not be "reissued"; instead, an applicant may be issued a new license. New language requiring that an applicant meet the current requirements for licensure is added.

New §831.25 implements Senate Bill 1733 (2011, Regular Session) related to the licensing of military spouses.

The amendment to §831.31 clarifies the language by changing the word "will" to the word "shall."

The amendment to §831.32 requires that a midwifery student enrolled in an approved course must complete specific increased clinical requirements in accordance with a recent change to national certification standards.

Amendments to §831.33 correct obsolete language to reflect Sunset legislation in the change from "documentation" to "licensure" because midwives receive a license and not a "letter of documentation."

Amendments to §831.34 clarify that education course approval may be revoked for failing to meet one or more of the standards set forth in rule.

Amendments to §831.35 add an increased requirement that a new exam application must include a "certified audit" rather than "a financial statement or balance sheet."

Amendments to §831.36 add a new method for complaint notification in order to permit a board investigator or inspector to hand deliver the notice.

Amendments to §831.37 add the words "and rules" and reflect the current content of the board's jurisprudence exam.

Amendments to §831.40 clarify that continuing education may be completed to satisfy either initial or renewal licensure requirements.

Amendments to §831.51 add the phrase "using reasonable skill and knowledge" to set a clear and consistent standard for regulation, update a reference, remove a reference to "protocols" consistent with the repeal of §831.54, and insert language formerly included in §831.54 (adopted for repeal) on the midwife's responsibility to assess the client on an ongoing basis to ensure that she is still an appropriate candidate for midwifery care.

Amendments to §831.52 remove a reference to "protocols" consistent with the repeal of §831.54.

The repeal of §831.54 eliminates duplicative requirements reflected in §§831.60, 831.65, 831.70, and 831.75. The board finds it unnecessary to further require a midwife to create individualized policies and protocols under §831.54 because it is more protective of public health to have one uniform set of regulations in §831.60, Prenatal Care; §831.65, Labor and Delivery; §831.70, Postpartum Care; and §831.75, Newborn Care During the First Six Weeks After Birth.

Amendments to §§831.57, 831.131, 831.141, 831.161, 831.163, 831.169, 831.171, and 831.174 include non-substantive editorial changes to improve readability within the sections and eliminate duplicate language.

Amendments to §831.58 remove a reference to "protocols" consistent with the repeal of §831.54.

Amendments to §831.60 add the phrase "using reasonable skill and knowledge" to set a clear and consistent standard for regulation and include a wording change consistent with existing language at §831.2 to reflect pre-term labor is a stage of less than 37 weeks.

Amendments to §831.65 add the phrase "using reasonable skill and knowledge" to set a clear and consistent standard for regulation, remove a reference to "protocols" consistent with the repeal of §831.54, and include a wording change consistent with existing language at §831.2 to reflect pre-term labor is a stage of less than 37 weeks.

Amendments to §831.70 add the phrase "using reasonable skill and knowledge" to set a clear and consistent standard for regulation and include wording changes consistent with new language requiring transfer of care for any hypertensive disorder.

Amendments to §831.75 add the phrase "using reasonable skill and knowledge" to set a clear and consistent standard for regulation and note the new name of §851.52 of this title.

Amendments to §831.101 remove language on the flow rate of oxygen as a specific flow in order to ensure consistency with current practice guidelines.

Amendments to §831.111 add new subsection (b) and correct language to be consistent with Health and Safety Code, §81.091.

Amendments to §831.121 clarify language and add a new requirement regarding a midwife's responsibility to document any client's refusal to permit the tests on a specific board form.

Amendments to §831.162 add an exemption to the five-year limit on considering a complaint in cases of birth certificate misconduct or continuing threats to public health, welfare or safety.

Amendments to §831.164 include a clarification that a category is only assigned for a jurisdictional complaint.

Amendments to §831.165 add new wording to establish that abandoning a client immediately after delivery constitutes failure

to practice midwifery in a manner consistent with public health and safety.

Amendments to §831.166 remove the requirement that respondents must be notified of a complaint within 10 days and add a new electronic option for notification of the status of the complaint.

Amendments to §831.167 remove the phrase "due to insufficient evidence" to permit the board to close a complaint for other reasons.

Amendments to §831.168 add the word "formal" to the section title in order to distinguish that the hearings referenced in this section are conducted by the State Office of Administrative Hearings.

Amendments to §831.170 add new language to clarify that a proposed agreed order is not effective until approved by the board.

Amendments to §831.172 clarify that each day a violation continues is a separate violation.

Amendments to §831.173 add non-substantive wording to reflect the abbreviation of "State Office of Administrative Hearings" as "SOAH."

COMMENTS

The board has reviewed and prepared responses to the comments received regarding the proposed rules during the comment period. The commenters were individuals, associations, and/or groups, including the following: The American Congress of Obstetricians and Gynecologists; the Texas Medical Association; the Texas Pediatric Society; and the Texas Society of Anesthesiologists. The commenters were not against the rules in their entirety; however, the commenters suggested recommendations for change as discussed in the summary of comments.

Comment: Concerning §831.13 and §831.32, three commenters stated that the board should amend the rules to require that the minimum level of education and training required for initial licensure meet the standards set by the American Midwifery Certification Board (AMCB).

Response: The board disagrees because the board believes that the standards set by the North American Registry of Midwives (NARM) for the Certified Professional Midwife (CPM) certification are more appropriate for the education and licensing of midwives in Texas than the AMCB Certified Midwife (CM) certification. Only two states (New York and Rhode Island) require the AMCB CM certification for licensure, while the other 24 states which require midwives to be licensed to practice midwifery accept either the NARM CPM certification or the NARM CPM examination as a part of their licensure requirements. No changes were made to the rule as a result of these comments.

Comment: Concerning §§831.51, 831.60, 831.65, 831.70, and 831.75, one commenter expressed concern that the phrase "using reasonable skill and knowledge" would obscure rather than clarify the standards by which midwives' performance are to be measured and was inconsistent with established Texas law.

Response: The board disagrees because "reasonable skill and knowledge" sets a clear and consistent standard for regulation which is similar to wording used in other states which license direct-entry midwives. No change was made as a result of this comment.

Comment: Concerning §831.60(b)(3), one commenter requested that the board require that midwives transfer a client to

a physician during prenatal care if the client refuses a referral for non-insulin dependent diabetes.

Response: The board disagrees that a client who is successfully controlling her non-insulin dependent diabetes through diet and exercise should be required to transfer her care to a physician. In addition, since this comment proposes a significant change to the midwife scope of practice and therefore affects licensees, small businesses including licensed birthing centers, the public and specifically consumers' right to access midwifery care, the board believes there has not been sufficient notice of or opportunity for comment to enable the board to implement such a change to the proposed rule. The board will take this suggestion under consideration for future rule-change proposals. No change was made to the rule as a result of this comment.

Comment: Concerning §831.60(b)(9), five commenters requested that the board prohibit midwives from attending vaginal births after caesarian (VBACs) by requiring that midwives transfer, not refer, a client to a physician during prenatal care if the client has had a previous caesarian section.

Response: The board disagrees that midwives should be forbidden to provide prenatal care to a woman who has had a caesarian or to perform VBAC deliveries. In addition, since this comment proposes a significant change to the midwife scope of practice and therefore affects licensees, small businesses including licensed birthing centers, the public and specifically consumers' right to access midwifery care, the board believes there has not been sufficient notice of or opportunity for comment to enable the board to implement such a change to the proposed rule. The board will take this suggestion under consideration for future rule-change proposals. No changes were made to the rule as a result of these comments.

Comment: Concerning §831.60(b)(10), five commenters requested that the board require that midwives transfer, not refer, the client to a physician during prenatal care if pregnant with twins.

Response: The board disagrees that midwives should be forbidden to provide prenatal care to women pregnant with twins or to deliver twins. In addition, since this comment proposes a significant change to the midwife scope of practice and therefore affects licensees, small businesses including licensed birthing centers, the public and specifically consumers' right to access midwifery care, the board believes there has not been sufficient notice of or opportunity for comment to enable the board to implement such a change to the proposed rule. The board will take this suggestion under consideration for future rule-change proposals. No changes were made to the rule as a result of these comments.

Comment: Concerning §831.65(e)(12), three commenters requested that the board add wording to modify "presentation(s) not compatible with spontaneous vaginal delivery" to specifically state that this includes face or brow presentation, which would therefore require immediate emergency transfer.

Response: The board disagrees that midwives should be forbidden to deliver face or brow presentations. In addition, since this comment proposes a significant change to the midwife scope of practice and therefore affects licensees, small businesses including licensed birthing centers, the public and specifically consumers' right to access midwifery care, the board believes there has not been sufficient notice of or opportunity for comment to enable the board to implement such a change to the proposed rule. The board will take this suggestion under consideration for

future rule-change proposals. No changes were made to the rule as a result of these comments.

Comment: Concerning §831.65(e)(12), three commenters requested that the board add wording to modify "presentation(s) not compatible with spontaneous vaginal delivery" to specifically state that this includes breech presentation, which would therefore require immediate emergency transfer. An additional commenter also stated that breech deliveries should therefore not be permitted out of hospital.

Response: The board disagrees that midwives should be forbidden to deliver breech babies. In addition, since this comment proposes a significant change to the midwife scope of practice and therefore affects licensees, small businesses including licensed birthing centers, the public and specifically consumers' right to access midwifery care, the board believes there has not been sufficient notice of or opportunity for comment to enable the board to implement such a change to the proposed rule. The board will take this suggestion under consideration for future rule-change proposals. No change was made to the rule as a result of this comment.

LEGAL CERTIFICATION

The Department of State Health Services, General Counsel, Lisa Hernandez, certifies that the rules, as adopted, have been reviewed by legal counsel and found to be a valid exercise of the agencies' legal authority.

SUBCHAPTER A. THE BOARD

22 TAC §§831.1 - 831.4, 831.7

STATUTORY AUTHORITY

The amendments are authorized under the Occupations Code, §203.151, which provides that, subject to the approval of the Executive Commissioner of the Texas Health and Human Services Commission, the Midwifery Board shall adopt substantive and procedural rules for the licensing of midwives and minimum standards for the practice of midwifery, including educational requirements, complaint and disciplinary procedures, reciprocity of licensing with other states, and such other duties as may be imposed by the Occupations Code, Chapter 203. Review of the sections implements Government Code, §2001.039.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 19, 2013.

TRD-201300679

Andrew MacLaurin

Chair

Texas Midwifery Board

Effective date: March 11, 2013

Proposal publication date: August 17, 2012

For further information, please call: (512) 776-6972



SUBCHAPTER B. LICENSURE

22 TAC §§831.11 - 831.17, 831.20 - 831.25

STATUTORY AUTHORITY

The amendments and new rule are authorized under the Occupations Code, §203.151, which provides that, subject to the approval of the Executive Commissioner of the Texas Health and Human Services Commission, the Midwifery Board shall adopt substantive and procedural rules for the licensing of midwives and minimum standards for the practice of midwifery, including educational requirements, complaint and disciplinary procedures, reciprocity of licensing with other states, and such other duties as may be imposed by the Occupations Code, Chapter 203. Review of the sections implements Government Code, §2001.039.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Andrew MacLaurin
Chair
Texas Midwifery Board
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For further information, please call: (512) 776-6972



SUBCHAPTER C. EDUCATION AND EXAMINATION

22 TAC §§831.31 - 831.37, 831.40

STATUTORY AUTHORITY

The amendments are authorized under the Occupations Code, §203.151, which provides that, subject to the approval of the Executive Commissioner of the Texas Health and Human Services Commission, the Midwifery Board shall adopt substantive and procedural rules for the licensing of midwives and minimum standards for the practice of midwifery, including educational requirements, complaint and disciplinary procedures, reciprocity of licensing with other states, and such other duties as may be imposed by the Occupations Code, Chapter 203. Review of the sections implements Government Code, §2001.039.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Andrew MacLaurin
Chair
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For further information, please call: (512) 776-6972



SUBCHAPTER D. PRACTICE OF MIDWIFERY

22 TAC §§831.51, 831.52, 831.57, 831.58, 831.60, 831.65, 831.70, 831.75, 831.101, 831.111, 831.121, 831.131, 831.141

STATUTORY AUTHORITY

The amendments are authorized under the Occupations Code, §203.151, which provides that, subject to the approval of the Executive Commissioner of the Health and Texas Human Services Commission, the Midwifery Board shall adopt substantive and procedural rules for the licensing of midwives and minimum standards for the practice of midwifery, including educational requirements, complaint and disciplinary procedures, reciprocity of licensing with other states, and such other duties as may be imposed by the Occupations Code, Chapter 203. Review of the sections implements Government Code, §2001.039.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Andrew MacLaurin
Chair
Texas Midwifery Board
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For further information, please call: (512) 776-6972



22 TAC §831.54

STATUTORY AUTHORITY

The repeal is authorized under the Occupations Code, §203.151, which provides that, subject to the approval of the Executive Commissioner of the Texas Health and Human Services Commission, the Midwifery Board shall adopt substantive and procedural rules for the licensing of midwives and minimum standards for the practice of midwifery, including educational requirements, complaint and disciplinary procedures, reciprocity of licensing with other states, and such other duties as may be imposed by the Occupations Code, Chapter 203. Review of the section implements Government Code, §2001.039.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Chair
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SUBCHAPTER E. COMPLAINT REVIEW

22 TAC §§831.161 - 831.174

STATUTORY AUTHORITY

The amendments are authorized under the Occupations Code, §203.151, which provides that, subject to the approval of the Executive Commissioner of the Texas Health and Human Services Commission, the Midwifery Board shall adopt substantive and procedural rules for the licensing of midwives and minimum standards for the practice of midwifery, including educational requirements, complaint and disciplinary procedures, reciprocity of licensing with other states, and such other duties as may be imposed by the Occupations Code, Chapter 203. Review of the sections implements Government Code, §2001.039.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 19, 2013.

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Andrew MacLaurin

Chair

Texas Midwifery Board

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For further information, please call: (512) 776-6972



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER M. FILING REQUIREMENTS

DIVISION 11. FILINGS MADE EASY-CERTIFICATES OF PROPERTY AND CASUALTY INSURANCE

28 TAC §§5.9370 - 5.9376

The commissioner of insurance adopts new Subchapter M, Division 11, §§5.9370 - 5.9376, concerning certificates of property and casualty insurance. Sections 5.9370, 5.9372, and 5.9374 are adopted with changes to the proposed text as published in the December 7, 2012, issue of the *Texas Register* (37 TexReg 9593). Sections 5.9371, 5.9373, 5.9375, and 5.9376 are adopted without changes and will not be republished.

REASONED JUSTIFICATION. Senate Bill 425, 82nd Legislature, Regular Session, 2011, added Chapter 1811 to the Insurance Code, relating to Certificates of Property and Casualty Insurance and approval of property and casualty certificate of insurance forms by TDI. Chapter 1811 applies to a certificate holder, policyholder, insurer, or agent with regard to a certificate of insurance issued on property or casualty operations or a risk located in this state, regardless of where the certificate holder, policyholder, insurer, or agent is located. Under §1811.052, certificate of insurance forms for risks located in Texas must be filed with and approved by TDI before being executed, issued, or required to be issued. Moreover, §1811.101 prohibits an

insurer or agent from delivering or issuing for delivery in Texas a certificate of insurance unless the certificate's form has been filed with and approved by the commissioner.

The new sections are necessary to implement Insurance Code Chapter 1811. Since SB 425 took effect on September 1, 2011, TDI has received a number of inquiries regarding filing requirements, use, and permissible content of certificates of insurance. The sections address those issues to improve the efficiency, effectiveness, and transparency of TDI's filing and approval process for certificate of insurance form filings, and to provide clear guidance to persons responsible for completing the approved forms.

In response to a comment and to comply with United States Code Title 15, Section 8202(c), TDI has added subsection (e) to §5.9370 to clarify that the adopted sections do not apply to a certificate or evidence form pertaining to a nonadmitted insurance policy sold to, solicited by, or negotiated with an insured whose home state is not Texas. Subsection (e) also defines "home state" as in Insurance Code §226.051.

HOW THE SECTIONS WILL FUNCTION. Section 5.9370 addresses the purpose and scope of the rules. Section 5.9371 supplements and clarifies the definitions in Chapter 1811. Sections 5.9372 - 5.9374 provide specific requirements for the preparation and submission of certificate of insurance form filings, including requirements for the transmittal information and the TDI procedure for handling incomplete filings. Section 5.9375 addresses the use of certificate of insurance forms. Section 5.9376 explains restrictions that apply to the content of certificates of insurance.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Comment: A commenter recommended revising the proposed rules to add an exclusion to §5.9370 that reflects the federal preemption in 15 U.S.C. §8202(c) with regard to a surplus lines policy placed with an insured whose home state is another state. The commenter also recommended that TDI define "home state" as in Insurance Code §226.051.

Agency Response: TDI has added subsection (e) to §5.9370 to clarify that the adopted sections do not apply to a certificate or evidence form pertaining to a nonadmitted insurance policy sold to, solicited by, or negotiated with an insured whose home state is not Texas. TDI has also defined "home state" in subsection (e) as in Insurance Code §226.051.

NAMES OF THOSE COMMENTING FOR AND AGAINST THE SECTIONS. For, with changes: Winstead, on behalf of the Surplus Lines Stamping Office of Texas.

STATUTORY AUTHORITY. The commissioner adopts new §§5.9370 - 5.9376 pursuant to Insurance Code §§1811.003, 1811.052, 1811.101, 1811.102, 1811.103, and 36.001. Section 1811.003 allows the commissioner to adopt rules as necessary or proper to accomplish the purposes of Chapter 1811. Section 1811.052 requires TDI approval for certificates of insurance for risks located in Texas prior to use. Section 1811.101 and §1811.102 provide filing, approval, and disapproval requirements for certificates of insurance. Section 1811.103 mandates that certain standard certificate of insurance forms are deemed approved upon filing. Section 36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

§5.9370. Purpose and Scope.

(a) This division specifies the filing requirements for certificates of property and casualty insurance submitted pursuant to Chapter 1811 of the Insurance Code. It also consolidates and explains the restrictions that apply to the content of certificates of insurance.

(b) Nothing in this division prohibits a certificate holder from requesting a copy of the subject policy or endorsements.

(c) Nothing in this division applies to certificates or evidence forms exempted from the filing requirements pursuant to Insurance Code §1811.002(b), including:

(1) a statement, summary, or evidence of property insurance required by a lender in a lending transaction involving a mortgage, lien, deed of trust, or any other security interest in real or personal property as security for a loan;

(2) a certificate issued under a group or individual policy for life insurance, credit insurance, accident and health insurance, long-term care benefit insurance, or Medicare supplement insurance or an annuity contract; or

(3) standard proof of motor vehicle liability insurance.

(d) Nothing in this division applies to negotiable or transferable certificates or evidence forms pertaining to marine insurance.

(e) Nothing in this division applies to a certificate or evidence form pertaining to a nonadmitted insurance policy sold to, solicited by, or negotiated with an insured whose home state is not Texas. In this subsection, "home state" has the same definition as in Insurance Code §226.051.

§5.9372. Preparation and Submission of Certificate of Insurance Form Filings.

(a) Approval required. A certificate of insurance issued on property or casualty operations or a risk located in this state, regardless of where the certificate holder, policyholder, insurer, or agent is located, must be on a form that has been filed and approved prior to use.

(b) Filing content. All filings for new or amended certificate of insurance forms submitted pursuant to Insurance Code Chapter 1811 must comply with the filing requirements set forth in this division, any other applicable rules the commissioner has adopted, and any applicable commissioner's orders.

(1) All filings must contain transmittal information as required by §5.9373 of this title (relating to Certificate of Insurance Form Filing Transmittal Information).

(2) All filings must contain a copy of the subject certificate of insurance form. For identification purposes, the certificate of insurance must contain a form number and edition date.

(c) Combined filings. Do not combine a certificate of insurance form filing with any other filing.

(d) Filing submission.

(1) TDI will accept a filing required under this division by mail. Send filings to the Texas Department of Insurance, Property and Casualty Intake, Mail Code 104-3B, P.O. Box 149104, Austin, Texas 78714-9104.

(2) TDI will accept a filing required under this division if it is hand-delivered. Bring filings to the Texas Department of Insurance, Customer Service Center, William P. Hobby Jr. State Office Building, 333 Guadalupe St., Tower 1, Room 103, Austin, Texas 78701.

(3) TDI will accept a filing required under this division that is submitted electronically, whether by email to PCFilingsIntake@tdi.texas.gov or through SERFF.

(4) TDI will not collect a filing fee for a certificate of insurance filing.

(e) Public inspection of filing.

(1) A certificate of insurance form and any supporting information filed with TDI under this division is open to public inspection as of the date of the filing.

(2) To the extent that a filing includes company contact information, the company affirmatively consents to the release and disclosure of its company contact information, including any email addresses.

§5.9374. Incomplete Filings.

(a) A filing is incomplete if the filing does not comply with all of the filing requirements described in this division.

(b) TDI will return an incomplete filing to the filer with a letter or electronic notification indicating the reasons for the return.

(c) The 60-day period in Insurance Code §1811.101(c) does not commence until TDI receives a complete filing.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 21, 2013.

TRD-201300774

Sara Waitt

General Counsel

Texas Department of Insurance

Effective date: March 13, 2013

Proposal publication date: December 7, 2012

For further information, please call: (512) 463-6327



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 5. FUNDS MANAGEMENT (FISCAL AFFAIRS)

SUBCHAPTER D. CLAIMS PROCESSING-- PAYROLL

34 TAC §5.41

The Comptroller of Public Accounts adopts an amendment to §5.41, concerning payroll requirements, without changes to the proposed text as published in the December 21, 2012, issue of the *Texas Register* (37 TexReg 9867). The amendment removes requirements now covered in other rules, deletes archaic requirements and conforms the rule to current statutory requirements. Subsection (b) is amended to delete outdated requirements. Subsection (r) regarding lump sum vacation pay is deleted because it is now addressed in §5.43. Subsection (s) for lump sum payment of vacation and sick pay is removed

since it is now covered by §5.44 and subsection (t) related to hazardous duty pay is now addressed by §5.39.

No comments were received regarding adoption of the amendment.

This amendment is adopted under Government Code, §659.004 and §2101.0376, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Government Code, Title 6 and Title 10.

The amendment implements Government Code, §659.004 and §2101.0376.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 19, 2013.

TRD-201300689

Ashley Harden

General Counsel

Comptroller of Public Accounts

Effective date: March 11, 2013

Proposal publication date: December 21, 2012

For further information, please call: (512) 475-0387



SUBCHAPTER E. CLAIMS PROCESSING-- PURCHASE VOUCHERS

34 TAC §5.51

The Comptroller of Public Accounts adopts an amendment to §5.51, concerning requirements for purchase documents, without changes to the proposed text as published in the December 21, 2012, issue of the *Texas Register* (37 TexReg 9874). The amendment changes the name of the purchase guide from the "Purchase Policies and Procedures Guide" to "eXpendit" and adds the definition of a fiscal year and amends the definition of an appropriation year.

No comments were received regarding adoption of the amendment.

This amendment is authorized under Government Code, §2155.322, which provides the comptroller the authority to adopt the form or manner that state agencies must use to certify the receipt of goods and services along with the financial information and purchase information provided by the invoice and purchase voucher. It is also authorized under Government Code, §2155.0012, which authorizes the comptroller to adopt rules to administer purchasing procedures under Chapter 2155.

The amendment implements Government Code, §403.039 and §403.071.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 19, 2013.

TRD-201300690

Ashley Harden

General Counsel

Comptroller of Public Accounts

Effective date: March 11, 2013

Proposal publication date: December 21, 2012

For further information, please call: (512) 475-0387



34 TAC §5.56

The Comptroller of Public Accounts adopts amendments to §5.56, concerning appropriation year determination, without changes to the proposed text as published in the December 21, 2012, issue of the *Texas Register* (37 TexReg 9876). The primary purpose of the amendments is to update the section in non-substantive ways, including clarifying existing language.

No comments were received regarding adoption of the amendment.

The amendments are adopted under Government Code, §2101.035(a), which authorizes the comptroller to adopt rules for the effective operation of the uniform statewide accounting system. The amendments are also adopted under Government Code, §2113.205(d), which authorizes the comptroller to adopt rules to administer that section.

The amendments implement Government Code, §2101.035 and §2113.205.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Ashley Harden

General Counsel

Comptroller of Public Accounts

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Proposal publication date: December 21, 2012

For further information, please call: (512) 475-0387



SUBCHAPTER L. CLAIMS PROCESSING-- DUPLICATE WARRANTS

34 TAC §5.140

The Comptroller of Public Accounts adopts an amendment to §5.140, concerning replacement warrants, without changes to the proposed text as published in the December 21, 2012, issue of the *Texas Register* (37 TexReg 9878).

This section is being amended to reflect the definition of a state agency, an appropriation year, a fiscal year and a warrant. The change to the rule is found in subsection (a)(8), (10), (11) and (12), respectively. This section is also being amended to reflect the deleted reference to a check and to change fiscal year to appropriation year. This change to the rule is found in subsection (g)(1) and (4).

No comments were received regarding adoption of the amendment.

This amendment is adopted under Government Code, §403.054, which requires the comptroller to adopt rules relating to the issuance of replacement warrants.

The amendment implements Government Code, §403.054

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Ashley Harden

General Counsel

Comptroller of Public Accounts

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SUBCHAPTER N. FUNDS ACCOUNTING-- ACCOUNTING POLICY STATEMENTS

34 TAC §5.160

The Comptroller of Public Accounts adopts an amendment to §5.160, concerning incorporation by reference: accounting policy statements 2008 - 2009, without changes to the proposed text as published in the December 21, 2012, issue of the *Texas Register* (37 TexReg 9880). The accounting policy statements are issued to provide procedures and guidelines to state agencies for the effective operation of the Uniform Statewide Accounting System and for preparation of the annual financial report. Each accounting policy statement contains legal references, a background section, comptroller requirements and state agency requirements, and division contact if more information is needed. Section 5.160 is being amended to correct the applicable biennium years, the effective date of the accounting policy statements and the name of the Fund Accounting Division.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Government Code, §§403.011, 2101.012, 2101.035, and 2101.037, which provide the comptroller with the authority to prescribe rules and procedures relating to the operation of the Uniform Statewide Accounting System, the preparation of the annual financial report and supervising the state's fiscal concerns.

The amendment implements Government Code, §§403.011, 2101.012, 2101.035, and 2101.037.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Ashley Harden

General Counsel

Comptroller of Public Accounts

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SUBCHAPTER O. UNIFORM STATEWIDE ACCOUNTING SYSTEM

34 TAC §5.200

The Comptroller of Public Accounts adopts amendments to §5.200, concerning state property accounting system, without changes to the proposed text as published in the December 21, 2012, issue of the *Texas Register* (37 TexReg 9880).

The amendments conform §5.200 to legislative changes made to the state property accounting statutes (Government Code, Chapter 403, Subchapter L) by Senate Bill 5, 82nd Legislature. This rule is also being amended to reflect language changes for reporting lost, missing, damaged or stolen property, to add the definition of a fiscal year, and to make other clarifying changes.

No comments were received regarding adoption of the amendment.

The amendments are adopted under Government Code, §403.271(b), which requires the comptroller to adopt necessary rules for the implementation of the state property accounting system.

The amendment implements Government Code, §§403.271 - 403.278.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Ashley Harden

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 14. SCHOOL BUS SAFETY STANDARDS

SUBCHAPTER D. SCHOOL BUS SAFETY STANDARDS

37 TAC §14.52

The Texas Department of Public Safety (the department) adopts the amendment to §14.52, concerning Texas School Bus Specifications. This section is adopted without changes to the proposed text as published in the November 9, 2012, issue of the *Texas Register* (37 TexReg 8933) and will not be republished.

The amendment to §14.52 is necessary to update the rule to reflect the 2013 Texas School Bus Specifications as the current publication.

No comments were received regarding the adoption of this amendment.

This amendment is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Education Code, §34.002, which authorizes the department to adopt safety standards for school buses; Texas Transportation Code, §547.102, which authorizes the department to adopt standards and specifications for school bus equipment; and Texas Transportation Code, §547.7015, which authorizes the department to adopt rules governing the design, color, lighting, and other equipment, construction, and operation of a school bus for the transportation of schoolchildren.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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D. Phillip Adkins

General Counsel

Texas Department of Public Safety

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For further information, please call: (512) 424-5848



CHAPTER 15. DRIVER LICENSE RULES

SUBCHAPTER K. INTERAGENCY AGREEMENTS

37 TAC §15.171

The Texas Department of Public Safety (the department) adopts new §15.171, concerning Identifying Document for Offenders/Memorandum of Understanding. This section is adopted without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10125) and will not be republished.

New §15.171 is necessary to adopt a memorandum of understanding with the Texas Department of Criminal Justice (TDCJ) and Department of State Health Services (DSHS) for the issuance of personal identification certificates to inmates preparing for release.

No comments were received regarding the adoption of this proposal.

This new section is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and §501.0165(c) which authorizes the department by rule to adopt a memorandum of understanding with TDCJ and DSHS for the issuance of personal identification certificates to inmates preparing for release.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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D. Phillip Adkins

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Texas Department of Public Safety

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CHAPTER 23. VEHICLE INSPECTION

SUBCHAPTER A. VEHICLE INSPECTION STATION LICENSING

37 TAC §§23.1 - 23.15, 23.18, 23.19

The Texas Department of Public Safety (the department) adopts the repeal of §§23.1 - 23.15, 23.18, and 23.19, concerning Vehicle Inspection Station Licensing. This repeal is adopted without changes to the proposal as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10126) and will not be republished.

The repeal of this subchapter is necessary to enable the adoption of a new Subchapter A for the purpose of reorganizing and consolidating the rules governing license processing and to generally improve the clarity of the related rules.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §548.002, which authorizes the Texas Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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D. Phillip Adkins
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Texas Department of Public Safety
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SUBCHAPTER B. GENERAL INSPECTION REQUIREMENTS

37 TAC §§23.21 - 23.29

The Texas Department of Public Safety (the department) adopts the repeal of §§23.21 - 23.29, concerning General Inspection Requirements. This repeal is adopted without changes to the proposal as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10127) and will not be republished.

The repeal of this subchapter is necessary to enable the adoption of a new Subchapter B for the purpose of reorganizing and consolidating the rules governing license processing and to generally improve the clarity of the related rules.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §548.002, which authorizes the Texas Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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D. Phillip Adkins
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For further information, please call: (512) 424-5848

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SUBCHAPTER C. INSPECTION ITEMS, PROCEDURES, AND REQUIREMENTS

37 TAC §23.41, §23.42

The Texas Department of Public Safety (the department) adopts the repeal of §23.41 and §23.42, concerning Inspection Items, Procedures, and Requirements. This repeal is adopted without changes to the proposal as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10128) and will not be republished.

The repeal of this subchapter is necessary to enable the adoption of a new Subchapter C for the purpose of reorganizing and

consolidating the rules governing license processing and to generally improve the clarity of the related rules.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §548.002, which authorizes the Texas Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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SUBCHAPTER D. VEHICLE INSPECTION RECORDS

37 TAC §§23.51 - 23.53

The Texas Department of Public Safety (the department) adopts the repeal of §§23.51 - 23.53, concerning Vehicle Inspection Records. This repeal is adopted without changes to the proposal as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10128) and will not be republished.

The repeal of this subchapter is necessary to enable the adoption of a new Subchapter D for the purpose of reorganizing and consolidating the rules governing license processing and to generally improve the clarity of the related rules.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §548.002, which authorizes the Texas Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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SUBCHAPTER E. CERTIFICATION OF INSPECTORS

37 TAC §23.61, §23.62

The Texas Department of Public Safety (the department) adopts the repeal of §23.61 and §23.62, concerning Certification of Inspectors. This repeal is adopted without changes to the proposal as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10129) and will not be republished.

The repeal of this subchapter is necessary to enable the adoption of a new Subchapter E for the purpose of reorganizing and consolidating the rules governing license processing and to generally improve the clarity of the related rules.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §548.002, which authorizes the Texas Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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SUBCHAPTER F. VEHICLE INSPECTION STATION OPERATION

37 TAC §§23.71 - 23.81

The Texas Department of Public Safety (the department) adopts the repeal of §§23.71 - 23.81, concerning Vehicle Inspection Station Operation. This repeal is adopted without changes to the proposal as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10130) and will not be republished.

The repeal of this subchapter is necessary to enable the adoption of a new Subchapter F for the purpose of reorganizing and

consolidating the rules governing license processing and to generally improve the clarity of the related rules.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §548.002, which authorizes the Texas Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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D. Phillip Adkins
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SUBCHAPTER G. VEHICLE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM

37 TAC §§23.93 - 23.97

The Texas Department of Public Safety (the department) adopts the repeal of §§23.93 - 23.97, concerning Vehicle Emissions Inspection and Maintenance Program. This repeal is adopted without changes to the proposal as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10130) and will not be republished.

The repeal of this subchapter is necessary to enable the adoption of a new Subchapter E for the purpose of reorganizing and consolidating the rules governing license processing and to generally improve the clarity of the related rules.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §548.002, which authorizes the Texas Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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D. Phillip Adkins
General Counsel
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For further information, please call: (512) 424-5848

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SUBCHAPTER A. VEHICLE INSPECTION STATION AND VEHICLE INSPECTOR CERTIFICATION

37 TAC §§23.1 - 23.6

The Texas Department of Public Safety (the department) adopts new §§23.1 - 23.6, concerning Vehicle Inspection Station and Vehicle Inspector Certification. These sections are adopted without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10131) and will not be republished.

The new subchapter is necessary to reorganize and consolidate the rules governing vehicle inspection station and vehicle inspector certification process and generally improve the clarity of the related rules.

No comments were received regarding the adoption of these new sections.

These new sections are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §548.002, which authorizes the Texas Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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D. Phillip Adkins
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SUBCHAPTER B. GENERAL VEHICLE INSPECTION STATION REQUIREMENTS

37 TAC §§23.11 - 23.14

The Texas Department of Public Safety (the department) adopts new §§23.11 - 23.14, concerning General Vehicle Inspection Station Requirements. These sections are adopted without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10135) and will not be republished.

The new subchapter is necessary to reorganize and consolidate the rules governing inspection station facilities, equipment, and the conduct of inspectors and to generally improve the clarity of the related rules.

No comments were received regarding the adoption of these new sections.

These new sections are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §548.002, which authorizes the Texas Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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SUBCHAPTER C. VEHICLE INSPECTION STATION OPERATION

37 TAC §§23.21 - 23.30

The Texas Department of Public Safety (the department) adopts new §§23.21 - 23.30, concerning Vehicle Inspection Station Operation. These sections are adopted without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10137) and will not be republished.

The new subchapter is necessary to reorganize and consolidate the rules governing inspection station operations and to generally improve the clarity of the related rules.

The department accepted comment on the proposed new rules through January 28, 2013. Written comments were submitted by Elizabeth Gardner representing Texas Automobile Dealers Association. No changes were made to the proposed new subchapter based on the comments received by the department. Substantive comments received, as well as the department's responses, thereto, are summarized below:

COMMENT: Section 23.28, Vehicle Inspection Fees, does not address the issue of advertising inspection fees.

RESPONSE: The department advises that advertising the inspection fee in conjunction with other products or services will no longer be a violation of the rules, so long as the advertisements comply with the new provision prohibiting misleading or deceptive advertising. See new §23.28(d).

COMMENT: Previously a dealer could not advertise "free inspection" with any other goods or services. May a dealer now advertise "free inspection" with other goods or services? For instance, a free inspection with an oil change.

RESPONSE: The department's rules no longer prohibit this practice.

COMMENT: Regarding current §23.73(b)(4), may the fee or a portion of the fee be waived or deferred provided advance payment for certificates has been made to the department?

RESPONSE: Current §23.73(b)(4) has been repealed. New provision §23.26(a) requires payment at the time of ordering or billing.

These new sections are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §548.002, which authorizes the Texas Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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SUBCHAPTER D. VEHICLE INSPECTION ITEMS, PROCEDURES, AND REQUIREMENTS

37 TAC §23.41, §23.42

The Texas Department of Public Safety (the department) adopts new §23.41 and §23.42, concerning Vehicle Inspection Items, Procedures, and Requirements. These sections are adopted without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10139) and will not be republished.

The new subchapter is necessary to reorganize and consolidate the rules governing the required inspection items and the required procedures for their inspection and to generally improve the clarity of the related rules.

No comments were received regarding the adoption of these new sections.

These sections are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §548.002, which authorizes the Texas Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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SUBCHAPTER E. VEHICLE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM

37 TAC §§23.51 - 23.58

The Texas Department of Public Safety (the department) adopts new §§23.51 - 23.58, concerning Vehicle Emissions Inspection and Maintenance Program. These sections are adopted without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10140) and will not be republished.

The new subchapter is necessary to reorganize and consolidate the rules governing the Vehicle Emissions Inspection and Maintenance Program and to generally improve the clarity of the related rules.

No comments were received regarding the adoption of these new sections.

These sections are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §548.002, which authorizes the Texas Department of Public Safety to adopt rules to enforce Chapter 548.

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SUBCHAPTER F. VIOLATIONS AND ADMINISTRATIVE PENALTIES

37 TAC §23.61, §23.62

The Texas Department of Public Safety (the department) adopts new §23.61 and §23.62, concerning Violations and Administrative Penalties. These sections are adopted without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10145) and will not be republished.

The new subchapter is necessary to reorganize and consolidate the rules governing violations of inspection requirements and the related administrative penalties and to generally improve the clarity of the related rules.

No comments were received regarding the adoption of these new sections.

These sections are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §548.002, which authorizes the Texas Department of Public Safety to adopt rules to enforce Chapter 548.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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D. Phillip Adkins
General Counsel

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CHAPTER 28. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES

SUBCHAPTER K. PRESERVATION OF BIOLOGICAL EVIDENCE

37 TAC §§28.181 - 28.185

The Texas Department of Public Safety (the department) adopts the repeal of §§28.181 - 28.185, concerning Preservation of Biological Evidence. These sections are adopted without changes to the proposal as published in the November 9, 2012, issue of the *Texas Register* (37 TexReg 8934) and will not be republished.

The repeal of these sections is necessitated by amendments made to Code of Criminal Procedure, Article 38.43 by 82nd Legislature, 2011, SB 1616.

No comments were received regarding the adoption of these repeals.

These repeals are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; §411.053(b), which states the department shall adopt rules relating to the delivery, cataloging, and preservation of evidence stored under this section; Texas Code of Criminal Procedure, Article 38.43(g), which requires the department to adopt standards and rules, consistent with best practices, relating to a person described by Subsection (b), that specify the manner of collection, storage, preservation, and retrieval of biological evidence; and Article 38.43(f), which provides that the department shall adopt standards and rules authorizing a county with a population less than 100,000 to

ensure the preservation of biological evidence by promptly delivering the evidence to the department for storage in accordance with §411.053, Government Code, and department rules.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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D. Phillip Adkins
General Counsel

Texas Department of Public Safety

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For further information, please call: (512) 424-5848



SUBCHAPTER L. MISCELLANEOUS

37 TAC §28.191

The Texas Department of Public Safety (the department) adopts the repeal of §28.191, concerning Sexual Assault Evidence in Cases Without Law Enforcement Reporting. This section is adopted without changes to the proposed text as published in the November 9, 2012, issue of the *Texas Register* (37 TexReg 8935) and will not be republished.

The repeal of this section is necessitated by amendments made to Code of Criminal Procedure, Article 38.43 by SB 1616, 82nd Legislature, 2011.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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General Counsel

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SUBCHAPTER K. COLLECTION, STORAGE, PRESERVATION, AND RETRIEVAL OF BIOLOGICAL EVIDENCE

37 TAC §§28.181 - 28.183

The Texas Department of Public Safety (the department) adopts new §§28.181 - 28.183, concerning Collection, Storage, Preservation, and Retrieval of Biological Evidence. These sections are adopted without changes to the proposed text as published in the November 9, 2012, issue of the *Texas Register* (37 TexReg 8935) and will not be republished.

These rules are required by SB 1616, 82nd Legislature, 2011, which amended Texas Code of Criminal Procedure, Article 38.43. Article 38.43(g) requires the department to adopt standards and rules, consistent with best practices, relating to a person described by subsection (b), that specify the manner of collection, storage, preservation, and retrieval of biological evidence.

No comments were received regarding the adoption of these new sections.

These sections are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Code of Criminal Procedure, Article 38.43(g), which requires the department to adopt standards and rules, consistent with best practices, relating to a person described by Subsection (b), that specify the manner of collection, storage, preservation, and retrieval of biological evidence.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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D. Phillip Adkins
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SUBCHAPTER L. CATALOGING, DELIVERY, AND DISPOSITION OF BIOLOGICAL EVIDENCE--COUNTY WITH POPULATION LESS THAN 100,000

37 TAC §§28.191 - 28.194

The Texas Department of Public Safety (the department) adopts new §§28.191 - 28.194, concerning Cataloging, Delivery, and Disposition of Biological Evidence--County With Population Less Than 100,000. These sections are adopted without changes to the proposed text as published in the November 9, 2012, issue of the *Texas Register* (37 TexReg 8936) and will not be republished.

These rules are adopted pursuant to Government Code, §411.053(b), and SB 1616, 82nd Legislature, 2011, which amended Code of Criminal Procedure, Article 38.43. Article 38.43(f) provides that the department shall adopt standards and rules authorizing a county with a population less than 100,000 to ensure the preservation of biological evidence by promptly

delivering the evidence to the department for storage in accordance with Government Code, §411.053, and department rules.

No comments were received regarding the adoption of these new sections.

These sections are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; §411.053(b), which states the department shall adopt rules relating to the delivery, cataloging, and preservation of evidence stored under this section; Texas Code of Criminal Procedure, Article 38.43(f), which provides that the department shall adopt standards and rules authorizing a county with a population less than 100,000 to ensure the preservation of biological evidence by promptly delivering the evidence to the department for storage in accordance with §411.053, Government Code, and department rules.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 21, 2013.

TRD-201300771

D. Phillip Adkins
General Counsel

Texas Department of Public Safety

Effective date: March 13, 2013

Proposal publication date: November 9, 2012

For further information, please call: (512) 424-5848



SUBCHAPTER M. MISCELLANEOUS

37 TAC §28.201

The Texas Department of Public Safety (the department) adopts new §28.201, concerning Sexual Assault Evidence in Cases Without Law Enforcement Reporting. This section is adopted without changes to the proposed text as published in the November 9, 2012, issue of the *Texas Register* (37 TexReg 8937) and will not be republished.

New §28.201 was previously §28.191. The only change to the text is an update to the department's website.

No comments were received regarding the adoption of this new section.

This section is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 21, 2013.

TRD-201300772

◆ ◆ ◆
TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 2. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES

CHAPTER 105. AUTISM PROGRAM

40 TAC §§105.101, 105.103, 105.105, 105.107, 105.109, 105.111, 105.113, 105.115, 105.117, 105.119, 105.121, 105.123, 105.125, 105.127, 105.129, 105.131, 105.133

The Texas Health and Human Services Commission (HHSC), on behalf of the Department of Assistive and Rehabilitative Services (DARS), adopts new Texas Administrative Code (TAC), Title 40, Part 2, Chapter 105, Autism Program, §105.101, Purpose; §105.103, Legal Authority; §105.105, Definitions; §105.107, Eligibility; §105.109, Enrollment; §105.111, Rights of Children and Families; §105.113, Complaint Process; §105.115, Services Provided; §105.117, Length of Services; §105.119, Fee Schedule and Cost Share; §105.121, Limitation on Cost Per Child; §105.123, Payer of Last Resort; §105.125, Staff Qualifications; §105.127, Criminal Background Checks; §105.129, Performance Management; §105.131, Safety; and §105.133, Confidentiality of Information. Sections 105.101, 105.103, 105.105, 105.107, 105.109, 105.111, 105.115, 105.117, 105.119, 105.121, 105.123, 105.125, 105.127, 105.129, 105.131, and 105.133 are adopted without changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10156) and will not be republished. Section 105.113 is adopted with changes to the proposed text as published in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10156) and will be republished.

The new rules are adopted to implement the DARS Autism Program, which helps to improve the quality of life for children on the autism spectrum, along with that of their families. Autism services include applied behavioral analysis (ABA) for children ages three through eight.

DARS received one written comment from the Coalition for Nurses in Advanced Practice. A summary of the comment and the response follows.

Comment: The commenter suggested that Advanced Practice Registered Nurses (APRNs) be added to the definition of "qualified professional" in §105.105(7). The commenter stated that APRNs include nurse practitioners and clinical nurse specialists who are licensed by the Texas Board of Nursing in psychiatric mental health or pediatrics. Some of these APRNs may sub-specialize in neurodevelopmental disorders and have the training and background necessary to diagnose autism spectrum disorders.

Response: The agency disagrees with the commenter's suggestion. While APRNs may practice to provide a number of health care services, they are subject to significant limitations. Nurse practitioners may provide nursing aspects of care independently, but they may not provide medical aspects of care autonomously. There must be a collaborative relationship and practice agreement with a physician. Texas Board of Nursing rules in the TAC require that APRNs have protocols or other written authorization to provide medical aspects of patient care and that they must be developed jointly by the advanced practice registered nurse and an "appropriate physician(s)". (22 TAC §221.13) At this time, the agency believes that these limitations constitute an adequate basis for its decision not to add APRNs to its definition of "qualified professional." No changes were made to Autism Program rules in response to this comment.

A technical change was made by the agency in §105.113(a), changing the term "Program Director" to "Program Specialist," which more accurately describes the job position.

The new rules are adopted under Texas Government Code, §531.0055, which provides the executive commissioner of the Texas Health and Human Services Commission with the authority to promulgate rules for the operation and provision of health and human services agencies; and under the authority of the Texas Human Resource Code, Chapters 111 and 117.

§105.113. Complaint Process.

(a) A family may file a complaint in writing to the DARS Autism Program Specialist, Department of Assistive and Rehabilitative Services, 4800 North Lamar, Austin, Texas 78756. Or, a family may call DARS Inquiries at 1-800-628-5115 or send an email to: dars.inquiries@dars.state.tx.us.

(b) DARS staff members receive, evaluate, and seek satisfactory resolution to each complaint received.

(c) On each complaint under this chapter, DARS maintains a record containing the name of the person filing the complaint, the date the complaint was received, the subject matter of the complaint, the name of each person contacted concerning the complaint, a summary of the informal review, and an explanation of the reason the file was closed if DARS closed the file without taking action other than to investigate the complaint.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 22, 2013.

TRD-201300778
Sylvia F. Hardman
General Counsel
Department of Assistive and Rehabilitative Services
Effective date: March 14, 2013
Proposal publication date: December 28, 2012
For further information, please call: (512) 424-4050

TEXAS DEPARTMENT OF INSURANCE

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

As required by the Insurance Code, Article 5.96 and 5.97, the *Texas Register* publishes notice of proposed actions by the Texas Department of Insurance. Notice of action proposed under Article 5.96 must be published in the *Texas Register* not later than the 30th day before the proposal is adopted. Notice of action proposed under Article 5.97 must be published in the *Texas Register* not later than the 10th day before the proposal is adopted. The Administrative Procedure Act, Government Code, Chapters 2001 and 2002, does not apply to department action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act.

Texas Department of Insurance

Final Action on Rules

EXEMPT FILING NOTIFICATION PURSUANT TO THE INSURANCE CODE CHAPTER 5, SUBCHAPTER L, ARTICLE 5.96

ADOPTION OF REVISED WORKERS' COMPENSATION CLASSIFICATION RELATIVITIES AND AMENDMENTS TO THE TEXAS BASIC MANUAL OF RULES, CLASSIFICATIONS AND EXPERIENCE RATING PLAN FOR WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE UPDATING THE EXPECTED LOSS RATES AND DISCOUNT RATIOS TABLE

The commissioner adopts the items proposed by the October 31, 2012, TDI staff petition (Reference No. W-1012-08-I). TDI published notice of the proposal in the November 16, 2012, issue of the *Texas Register* (37 TexReg 9143). TDI considered the items at a public hearing held under Docket No. 2747 on December 17, 2012, at 9:30 a.m., in Room 100 of the William P. Hobby Jr. Building, 333 Guadalupe St. in Austin, Texas. TDI received no comments on the proposal.

The adopted items include (i) revised classification relativities to replace those adopted pursuant to Commissioner's Order No. 11-0125, dated February 9, 2011; (ii) a revised table to amend the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance concerning the expected loss rates and discount ratios used in experience rating; and (iii) a method to determine expected loss rates and discount ratios for 'a' rated classifications.

The commissioner has jurisdiction over this matter pursuant to Article 5.96 and §2053.051 and §2053.052 of the Texas Insurance Code. Article 5.96 authorizes TDI to prescribe, promulgate, adopt, approve, amend, or repeal standard and uniform manual rules, rating plans, classification plans, statistical plans, and policy and endorsement forms for various lines of insurance, including workers' compensation insurance. Section 2053.051 requires TDI to determine hazards by class and establish classification relativities applicable to the payroll in each class for workers' compensation insurance. Section 2053.052 requires the commissioner to adopt a uniform experience rating plan for workers' compensation insurance. Section 2053.051 and §2053.052 further provide that the classification system and experience rating plan be revised at least once every five years.

The commissioner has determined that it is necessary to revise the classification relativities and the manual as proposed by staff in the October 31, 2012, petition to utilize the most recent experience data available. Exhibit A of this order displays the schedule of revised classification relativities, Exhibit B displays the table of expected loss rates and discount ratios for the manual, and Exhibit C displays the method to determine expected loss rates and discount ratios for 'a' rated classifications. This order adopts and incorporates Exhibits A, B, and C by reference.

This adoption is made pursuant to Article 5.96 of the Texas Insurance Code, which exempts actions taken under Article 5.96 from the requirements of the Administrative Procedures Act (Government Code, Title 10, Chapter 2001).

TDI certifies that the adopted revisions to the classification relativities and the amendments to the manual have been reviewed by legal counsel and found to be a valid exercise of TDI's authority.

The commissioner orders that the classification relativities proposed by the staff petition (Reference No. W-1012-08-I) and exhibits attached to and incorporated by reference into this order are adopted.

The commissioner orders that the revised classification relativities are available for immediate use by insurers and their use is mandatory for all policies with an effective date on or after June 1, 2013, unless the insurer files to use an alternative classification rate basis or to use its own independent insurer-specific classification relativities.

The commissioner orders that the amendments to the manual proposed by the staff petition (Reference No. W-1012-08-I) and exhibits attached to and incorporated into this order by reference are adopted and apply to all workers' compensation experience modifiers with an effective date on and after June 1, 2013.

TRD-201300880

Sara Waitt

General Counsel

Texas Department of Insurance

Filed: February 26, 2013

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REVIEW OF AGENCY RULES

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Department of Housing and Community Affairs

Title 10, Part 1

The Texas Department of Housing and Community Affairs ("Department") will review 10 TAC §1.4, concerning Protest Procedures for Contractors. The review is being conducted in accordance with Texas Government Code, §2001.039, which requires state agencies to review and consider their administrative rules for repeal, re-adoption, or revision every four years. The review shall assess whether the reasons for initially adopting the rule continue to exist.

The Department will accept public comments for 30 days following the publication of this notice concerning whether the reasons for initially adopting the rule continue to exist.

Any written comments pertaining to this notice should be directed to David Johnson, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, by email at david.johnson@tdhca.state.tx, or by fax to (512) 469-9606. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. APRIL 8, 2013.

Any proposed repeal or amendment to the rule as a result of the review will be proposed and published in the *Texas Register* in accordance with the Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-201300865

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Filed: February 25, 2013



Texas Department of Insurance, Division of Workers' Compensation

Title 28, Part 2

The Texas Department of Insurance (Department), Division of Workers' Compensation (Division) will review and consider for readoption, revision, or repeal all sections of the following chapter of Title 28, Part 2 of the Texas Administrative Code, in accordance with the Texas Government Code §2001.039: Chapter 59, Notices of Intention to Appeal.

Chapter 59. Notices of Intention to Appeal

§59.5. Filing of the Notice.

§59.10. Receipt of Notice.

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

The Division will consider whether the reasons for initially adopting these rules continue to exist and whether these rules should be repealed, readopted, or readopted with amendments. Any repeals or necessary amendments identified during the review of these rules will be proposed and published in the *Texas Register* in accordance with the Administrative Procedure Act, Texas Government Code Chapter 2001.

To be considered, written comments relating to whether these rules should be repealed, readopted, or readopted with amendments must be submitted by 5:00 p.m. CST April 8, 2013. Comments may be submitted by email at RuleReviewComments@tdi.texas.gov or by mailing or delivering your comments to Maria Jimenez, Office of Workers' Compensation Counsel, MS-4D, Texas Department of Insurance, Division of Workers' Compensation, 7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645.

Comments should clearly specify the particular section of the rules to which they apply. Comments should include proposed alternative language as appropriate. General comments should be designated as such.

TRD-201300805

Dirk Johnson

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: February 22, 2013



Adopted Rule Reviews

Texas Education Agency

Title 19, Part 2

The Texas Education Agency (TEA) adopts the review of 19 TAC Chapter 30, Administration, Subchapter AA, Commissioner of Education: General Provisions, and Subchapter BB, Commissioner of Education: Purchasing and Contracts, pursuant to the Texas Government Code, §2001.039. The TEA proposed the review of 19 TAC Chapter 30, Subchapters AA and BB, in the December 7, 2012, issue of the *Texas Register* (37 TexReg 9659).

Relating to the review of 19 TAC Chapter 30, Subchapter AA, the TEA finds that the reasons for adopting Subchapter AA continue to exist and readopts the rule. The TEA received no comments related to the review of Subchapter AA. No changes are necessary as a result of the review.

Relating to the review of 19 TAC Chapter 30, Subchapter BB, the TEA finds that the reasons for adopting Subchapter BB continue to exist and readopts the rules. The TEA received no comments related to the review of Subchapter BB. At a later date, the TEA plans to update 19 TAC §30.2001, Historically Underutilized Business (HUB) Program,

to reflect the transfer of HUB rules from the Texas Building and Procurement Commission to the Comptroller of Public Accounts.

This concludes the review of 19 TAC Chapter 30.

TRD-201300731
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: February 20, 2013



Texas State Board of Pharmacy

Title 22, Part 15

The Texas State Board of Pharmacy adopts the review Chapter 291 (Subchapter G, §§291.120, 291.121, 291.123, 291.125, 291.127, 291.129, 291.131, and 291.133) concerning Services Provided by Pharmacies, pursuant to the Texas Government Code §2001.039, regarding Agency Review of Existing Rules. The proposed review was published in the December 14, 2012, issue of the *Texas Register* (37 TexReg 9789).

No comments were received.

The agency finds the reason for adopting the rules continues to exist.

TRD-201300854
Gay Dodson, R.Ph.
Executive Director/Secretary
Texas State Board of Pharmacy
Filed: February 25, 2013



The Texas State Board of Pharmacy adopts the review Chapter 297 (§§297.1 - 297.9), concerning Pharmacy Technicians and Pharmacy Technician Trainees, pursuant to the Texas Government Code §2001.039, regarding Agency Review of Existing Rules. The proposed review was published in the December 14, 2012, issue of the *Texas Register* (37 TexReg 9789).

No comments were received.

The agency finds the reason for adopting the rules continues to exist.

TRD-201300855
Gay Dodson, R.Ph.
Executive Director/Secretary
Texas State Board of Pharmacy
Filed: February 25, 2013



TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 10 TAC §23.31(j)

AMFI	Form of Assistance
\leq [$<$]30 percent AMFI	zero percent interest, 5-year deferred, forgivable loan, or grant agreement.
$>$ 30 percent and \leq 50 percent AMFI	zero percent interest, 10-year deferred, forgivable loan, or grant agreement.
$>$ 50 percent and \leq 60 percent AMFI	zero percent interest, 15-year deferred, forgivable loan, or grant agreement.
$>$ 60 percent and \leq 80 percent AMFI	zero percent interest, 15-year affordability period, 30-year term repayable loan term.

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Texas Department of Agriculture

Request for Proposals: 2013 Rural Communities Health Care Investment Program

The Texas Department of Agriculture (TDA) is accepting proposals for the Rural Communities Health Care Investment Program (Grant). The Grant is designed to promote recruitment and retention of non-physician licensed medical clinicians to federally designated health care underserved counties in Texas with fewer than 50,000 in population. Proposals must be received by TDA at the close of business (5:00 p.m. CST) on Monday, April 22, 2013.

Funding Parameters. Contingent upon available funds, eligible applicants may apply either for student loan reimbursement or a stipend payment. Eligible applicants applying for funds under this program may receive between \$5,000 and \$10,000. The size of the awards will be determined by the number of qualified applicants and availability of funds.

Selected recipients will be required to sign a contract stating their intent to practice in the qualifying community for at least 12 months, including a repayment provision if the recipient does not remain in the community for the required period.

Eligibility. Eligible applicants who may apply for this grant are non-physician licensed clinicians who begin practicing for the first time in a qualifying community - either after receiving their license or after working in a county with more than 500,000 in population. Qualifying clinicians include dentists and licensed non-physician mental health service providers, as well as other personnel who hold a license to work in a health care field in Texas. Licensed clinicians who apply must have identified a qualifying community where they will begin to practice.

Eligible counties will have fewer than 50,000 in population and be federally-designated as either a Medically Underserved Area (MUA) or Health Professional Shortage Area (HPSA). Counties that qualify with HPSA designation must be designated for the type of services provided by the applicant (i.e., primary care, mental health, dental). A list of qualifying counties is included in the application packet. Communities must also show support for the applicant by completing a portion of the application.

Submitting an Application. Applications are currently being accepted and must be submitted on the form provided by TDA by the submission deadline. Application and guidance documents are available on TDA's website at: <http://www.texasagriculture.gov/GrantsServices/RuralEconomicDevelopment/StateOfficeofRuralHealth/RuralHealthGrants.aspx> or upon request from TDA by calling (512) 936-6722.

Applications must be complete and have all required documentation to be considered. TDA reserves the right to request additional information or documentation to determine eligibility. Applications must be signed by the applicant and a community representative.

Applications will be accepted via mail, overnight or hand delivery, or email. Applications will not be accepted by facsimile. If mailing the application, make sure it is properly marked.

Deadline for Submission of Proposals. A complete application with signature must be received by TDA at the close of business (5:00 p.m. CST) on Monday, April 22, 2013.

Complete applications with signature must be submitted to:

Mailing Address: Texas Department of Agriculture, State Office of Rural Health, P.O. Box 12847, Austin, Texas 78711.

Or (for overnight delivery):

Street Address: Texas Department of Agriculture, State Office of Rural Health, 1700 N. Congress, 11th Floor, Austin, Texas 78701.

Email: Grants@TexasAgriculture.gov.

Faxed applications will not be accepted.

Assistance and Questions. For questions regarding submission of the proposal and TDA documentation requirements, please contact Ms. Amanda Maedgen, Rural Health Specialist, at (512) 936-6722 or by email at: amanda.maedgen@TexasAgriculture.gov.

Texas Public Information Act. Once submitted, all applications shall be deemed to be the property of the TDA and are subject to the Texas Public Information Act, Texas Government Code, Chapter 552.

TRD-201300893

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Filed: February 27, 2013

Office of the Attorney General

Texas Water Code and Texas Health and Safety Code Settlement Notice

Notice is hereby given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under the Texas Water Code and the Texas Health and Safety Code. Before the State may settle a judicial enforcement action under the Texas Water Code, the State shall permit the public to comment in writing on the proposed judgment. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreed judgment if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Texas Water Code.

Case Title and Court: City of Commerce, Texas and the State of Texas acting by and through the Texas Commission on Environmental Quality and Texas Department of State Health Services v. Roland von Kuratowski, III, Sandra Benante, Brett Olive, Beverly Tarrant, Ted Henderson, Sherry Kenner, Live Oak Apartments, LLC, Kingridge Apartments, LLC, and Fountainbleau Management Services, LLC; Cause No. 76,781, in the 196th Judicial District Court, Hunt County, Texas.

Nature of Defendants' Operations: Live Oak Apartments, LLC operates an apartment complex with Fountainbleau Management Services, LLC providing management services. Kingridge Apartments, LLC is a limited liability company which operates in Hunt County. Claims re-

solved include allegations that Defendants improperly disposed of debris and asbestos-containing materials during demolition of a building, in violation of Texas rules and regulations including the Texas Solid Waste Disposal Act, the Texas Clean Air Act, and the Texas Occupations Code.

Proposed Agreed Judgment: The Agreed Final Judgment orders Live Oak Apartments, LLC and Fountainbleau Management Services, LLC to pay \$192,000.00 in civil penalties (\$99,500 to the State and \$92,500 to the City of Commerce); \$73,000.00 in attorney's fees to the State and \$205,000.00 in attorney's fees to the City of Commerce; and all costs of court.

For a complete description of the proposed settlement, the complete proposed Agreed Final Judgment should be reviewed. Requests for copies of the judgment, and written comments on the proposed settlement, should be directed to Anthony W. Benedict, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0911. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-201300899
Katherine Cary
General Counsel
Office of the Attorney General
Filed: February 27, 2013

Concho Valley Workforce Development Board

Public Notice

Under a Regional Policy for Integrated Complaints, Hearings, and Appeals, Workforce Development Boards are requesting quotes and qualifications from individuals, entities, or organizations to perform hearing officer duties for the following programs: Child Care Services (CCS); Temporary Assistance to Needy Families (TANF) Choices; Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T); Workforce Investment Act (WIA) Adult, Dislocated Worker, and Youth, and Eligible Training Providers (ETP) receiving WIA funds or other funds for training services. The boards included in the Regional Policy are North Texas, Panhandle, Permian Basin, Texoma, West Central, and Concho Valley.

To request a copy of the Request for Quotes please contact Joyce Sneed at jsneed@cvworkforce.org or (325) 655-2005.

Response is due by 5:00 p.m. CDT, Thursday, March 28, 2013

TRD-201300903
Johnny Griffin
Executive Director
Concho Valley Workforce Development Board
Filed: February 27, 2013

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.005, 303.008, 303.009, 304.003, and 346.111, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/04/13 - 03/10/13 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/04/13 - 03/10/13 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005 and §303.009³ for the period of 02/01/13 - 02/28/13 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 and §303.009 for the period of 02/01/13 - 02/28/13 is 18% for Commercial over \$250,000.

The standard quarterly rate as prescribed by §303.008 and §303.009 for the period of 04/01/13 - 06/30/13 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard quarterly rate as prescribed by §303.008 and §303.009 for the period of 04/01/13 - 06/30/13 is 18% for Commercial over \$250,000.

The retail credit card quarterly rate as prescribed by §303.009¹ for the period of 04/01/13 - 06/30/13 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The lender credit card quarterly rate as prescribed by §346.111, Texas Finance Code¹ for the period of 04/01/13 - 06/30/13 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard annual rate as prescribed by §303.008 and §303.009⁴ for the period of 04/01/13 - 06/30/13 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard annual rate as prescribed by §303.008 and §303.009 for the period of 04/01/13 - 06/30/13 is 18% for Commercial over \$250,000.

The retail credit card annual rate as prescribed by §303.009¹ for the period of 04/01/13 - 06/30/13 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 03/01/13 - 03/31/13 is 5.00% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed §304.003 for the period of 03/01/13 - 03/30/13 is 5.00% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

² Credit for business, commercial, investment or other similar purpose.

³ For variable rate commercial transactions only.

⁴ Only for open-end credit as defined in §301.002(14), Texas Finance Code.

TRD-201300882
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: February 26, 2013

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later

than the 30th day before the date on which the public comment period closes, which in this case is April 8, 2013. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on April 8, 2013. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in **writing**.

(1) COMPANY: A.J.C. Rental of Texas, Ltd.; DOCKET NUMBER: 2012-2527-PST-E; IDENTIFIER: RN101818250; LOCATION: Kirby, Bexar County; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a) and (b), by failing to provide proper release detection for the pressurized and suction piping associated with the underground storage tank system; PENALTY: \$3,893; ENFORCEMENT COORDINATOR: David Carney, (512) 239-2583; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: Angel Brothers Enterprises, LTD.; DOCKET NUMBER: 2012-2674-PST-E; IDENTIFIER: RN102359023; LOCATION: Baytown, Harris County; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tank (UST) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to provide proper release detection for the pressurized piping associated with the UST system; PENALTY: \$3,880; ENFORCEMENT COORDINATOR: David Carney, (512) 239-2583; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(3) COMPANY: Aqua Utilities, Incorporated; DOCKET NUMBER: 2012-2519-PWS-E; IDENTIFIER: RN103871331; LOCATION: Wimberly, Hays County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.42(c)(1), 290.110(e)(2), and 290.111(a)(2), by failing to provide a minimum treatment consisting of coagulation with direct filtration for ground water under the influence of surface water and by failing to submit surface water monthly operating reports for systems that use groundwater under the influence of surface water; PENALTY: \$645; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3425; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, (512) 339-2929.

(4) COMPANY: ASPRI INVESTMENTS, LLC dba Aenm Corner Store; DOCKET NUMBER: 2012-2049-PST-E; IDENTIFIER: RN104028758; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tank (UST) system for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to provide

proper release detection for the product piping associated with the UST system; PENALTY: \$3,882; ENFORCEMENT COORDINATOR: Had Darling, (512) 239-2570; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(5) COMPANY: Barnett Contracting, Incorporated; DOCKET NUMBER: 2013-0279-WQ-E; IDENTIFIER: RN106548969; LOCATION: Bellwood, McLennan County; TYPE OF FACILITY: commercial construction; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a Multi-Sector General Permit (stormwater); PENALTY: \$875; ENFORCEMENT COORDINATOR: Harvey Wilson, (512) 239-0321; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(6) COMPANY: BM GROCERY STORE, INCORPORATED; DOCKET NUMBER: 2012-2220-PST-E; IDENTIFIER: RN101904035; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to provide release detection for the piping associated with the USTs; PENALTY: \$3,880; ENFORCEMENT COORDINATOR: John Fennell, (512) 239-2616; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(7) COMPANY: BURKI TRADING, INCORPORATED dba Star Stop 6; DOCKET NUMBER: 2013-0262-PST-E; IDENTIFIER: RN101728624; LOCATION: Orange, Orange County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Margarita Dennis, (512) 239-2578; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(8) COMPANY: CENTERVILLE WATER SUPPLY CORPORATION; DOCKET NUMBER: 2012-2671-PWS-E; IDENTIFIER: RN101439818; LOCATION: Groveton, Trinity County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.113(f)(4) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes based on the running annual average; PENALTY: \$172; ENFORCEMENT COORDINATOR: Jim Fisher, (512) 239-2537; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(9) COMPANY: CENTRAL DISPATCH, INCORPORATED; DOCKET NUMBER: 2012-2497-PST-E; IDENTIFIER: RN101861516; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tank for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,813; ENFORCEMENT COORDINATOR: Judy Kluge, (817) 588-5825; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(10) COMPANY: CHS/COMMUNITY HEALTH SYSTEMS, INCORPORATED dba Cleveland Regional Medical Center; DOCKET NUMBER: 2013-0261-PST-E; IDENTIFIER: RN101764132; LOCATION: Cleveland, Liberty County; TYPE OF FACILITY: hospital; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to possess a valid TCEQ Delivery Certifi-

cate prior to receiving fuel; PENALTY: \$875; ENFORCEMENT COORDINATOR: Margarita Dennis, (512) 239-2578; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(11) COMPANY: City of Anahuac; DOCKET NUMBER: 2012-2274-PWS-E; IDENTIFIER: RN101188761; LOCATION: Anahuac, Chambers County; TYPE OF FACILITY: municipal public water supply; RULE VIOLATED: 30 TAC §290.111(e)(1)(A) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to achieve a turbidity level of the combined filter effluent that is less than 1.0 Nephelometric Turbidity Units (NTU) for one day in May 2012; 30 TAC §290.111(e)(1)(B) and THSC, §341.0315(c), by failing to achieve a turbidity level of the combined filter effluent that is less than 0.3 NTU in at least 95% of the samples tested in May 2012 and June 2012; 30 TAC §290.113(f)(4) and THSC, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes based on the running annual average; and 30 TAC §290.122(b)(2)(A), by failing to provide public notifications for failing to achieve a turbidity level of the combined filter effluent that is less than 1.0 NTU and by failing to achieve a turbidity level of the combined filter effluent that is less than 0.3 NTU in at least 95% of the samples tested for the month of February 2012; PENALTY: \$630; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3425; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(12) COMPANY: City of De Kalb; DOCKET NUMBER: 2013-0047-PWS-E; IDENTIFIER: RN101390755; LOCATION: De Kalb, Bowie County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.109(f)(3) and §290.122(b)(2)(A) and Texas Health and Safety Code, §341.031(a), by failing to comply with the Maximum Contaminant Level (MCL) for total coliform and by failing to provide public notification of the MCL exceedance for the month of March 2012; 30 TAC §290.109(c)(2)(F), by failing to collect five routine distribution coliform samples the month following a coliform-positive sample result; and 30 TAC §290.109(c)(3)(A)(i), by failing to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample collected in August 2012; PENALTY: \$549; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(13) COMPANY: City of Fritch; DOCKET NUMBER: 2012-1905-PWS-E; IDENTIFIER: RN101199099; LOCATION: Fritch, Hutchinson County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(e)(4)(C) and Texas Health and Safety Code (THSC), §341.033(a), by failing to operate the facility under the direct supervision of at least two water works operators who hold a Class C or higher license; and 30 TAC §290.46(d)(2)(A) and §290.110(b)(2) and THSC, §341.0315(c), by failing to maintain a free chlorine residual of 0.2 milligrams per liter throughout the distribution system at all times; PENALTY: \$226; ENFORCEMENT COORDINATOR: Katy Schumann, (512) 239-2602; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(14) COMPANY: City of Gainesville; DOCKET NUMBER: 2013-0045-WR-E; IDENTIFIER: RN106541923; LOCATION: Gainesville, Cooke County; TYPE OF FACILITY: golf course; RULE VIOLATED: TWC, §11.121 and 30 TAC §297.11, by failing to obtain authorization prior to impounding, diverting, or using state water; PENALTY: \$2,250; ENFORCEMENT COORDINATOR: Jeremy Escobar, (361) 825-3422; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(15) COMPANY: City of Georgetown; DOCKET NUMBER: 2012-1972-MWD-E; IDENTIFIER: RN102917242; LOCATION: Georgetown, Williamson County; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010489003, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$15,000; Supplemental Environmental Project offset amount of \$12,000 applied to Texas Association of Resource Conservation and Development Areas, Incorporated - Household Hazardous Waste Clean-up; ENFORCEMENT COORDINATOR: Jacquelyn Green, (512) 239-2587; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, (512) 339-2929.

(16) COMPANY: City of Lacy Lakeview; DOCKET NUMBER: 2012-2652-PWS-E; IDENTIFIER: RN101388650; LOCATION: Lacy Lakeview, McLennan County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.43(e), by failing to ensure the fence around the facility is intruder-resistant; 30 TAC §290.46(f)(3)(B)(vi), by failing to provide facility records to commission personnel at the time of the investigation; and 30 TAC §290.44(h)(1)(A), by failing to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 TAC §290.47(i); PENALTY: \$686; ENFORCEMENT COORDINATOR: Katy Schumann, (512) 239-2602; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(17) COMPANY: City of Lone Oak; DOCKET NUMBER: 2012-2694-PWS-E; IDENTIFIER: RN101459766; LOCATION: Lone Oak, Hunt County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.109(f)(1)(A) and Texas Health and Safety Code, §341.031(a), by failing to comply with acute Maximum Contaminant Level for fecal coliform and *escherichia coli*; and 30 TAC §290.109(c)(3)(A)(i), by failing to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample; PENALTY: \$495; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(18) COMPANY: City of Odessa; DOCKET NUMBER: 2012-1626-MWD-E; IDENTIFIER: RN101614261; LOCATION: Odessa, Midland County; TYPE OF FACILITY: water reclamation plant; RULE VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010238002, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$7,750; Supplemental Environmental Project offset amount of \$6,200 applied to Texas Association of Resource Conservation and Development Areas, Incorporated - Household Hazardous Waste Clean-up; ENFORCEMENT COORDINATOR: Jacquelyn Green, (512) 239-2587; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(19) COMPANY: City of Wharton; DOCKET NUMBER: 2012-2084-PST-E; IDENTIFIER: RN102015633; LOCATION: Wharton, Wharton County; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(b) and (c)(1), by failing to monitor the underground storage tank (UST) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to provide release detection for the piping associated with the UST; PENALTY: \$3,375; Supplemental Environmental Project offset amount of \$2,700 applied to Friends of the River San Bernard Natural Area Acquisition and Conservation Program; ENFORCEMENT COORDINATOR: John Fennell, (512)

239-2616; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(20) COMPANY: Conroe Independent School District; DOCKET NUMBER: 2012-2081-PST-E; IDENTIFIER: RN102865201; LOCATION: Spring, Montgomery County; TYPE OF FACILITY: fleet refueling station; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tank for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,813; ENFORCEMENT COORDINATOR: David Carney, (512) 239-2583; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(21) COMPANY: Crockett Independent School District; DOCKET NUMBER: 2012-2642-PST-E; IDENTIFIER: RN102274586; LOCATION: Crockett, Houston County; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tank for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,813; ENFORCEMENT COORDINATOR: Sarah Davis, (512) 239-1653; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(22) COMPANY: DELKO SERVICES, L.L.C. dba Lee's Shell; DOCKET NUMBER: 2013-0014-PST-E; IDENTIFIER: RN101896942; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Elvia Maske, (512) 239-0789; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(23) COMPANY: E&W Investments L.L.C. dba Sunmart 138; DOCKET NUMBER: 2012-2147-PST-E; IDENTIFIER: RN102006137; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tank (UST) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to provide release detection for the piping associated with the UST; 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide proper corrosion protection for the UST system; and 30 TAC §334.10(b), by failing to maintain UST records and making them immediately available for inspection upon request by agency personnel; PENALTY: \$5,542; ENFORCEMENT COORDINATOR: Mike Pace, (817) 588-5933; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(24) COMPANY: Enterprise Products Operating LLC; DOCKET NUMBER: 2012-2086-AIR-E; IDENTIFIER: RN102323268; LOCATION: Mont Belvieu, Chambers County; TYPE OF FACILITY: industrial natural gas liquids fractionating plant; RULE VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 116.715(a), TCEQ Flexible Permit Numbers 76070 and PSDTX1057, Special Conditions (SC) Number 1, and Permit Numbers 20698 and PSDTX797M1, SC Number 1 and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$10,000; Supplemental Environmental Project offset amount of \$5,000 applied to City of Baytown - Hospital Remediation Project at Goose Creek; ENFORCEMENT COORDINATOR: Nadia Hameed, (713) 767-3629;

REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(25) COMPANY: INEOS Polymers, Incorporated; DOCKET NUMBER: 2012-2480-AIR-E; IDENTIFIER: RN102537289; LOCATION: La Porte, Harris County; TYPE OF FACILITY: petrochemical manufacturing plant; RULE VIOLATED: 30 TAC §§117.335(a)(1) and (e), 117.8000(a), 117.9020(2)(C)(i), and 122.143(4), Federal Operating Permit Number O2570, Special Terms and Conditions Number 1.A., and Texas Health and Safety Code, §382.085(b), by failing to conduct a stack test on Boiler PP-B102 prior to the March 31, 2007 deadline; PENALTY: \$970; ENFORCEMENT COORDINATOR: Kimberly Morales, (713) 422-8938; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(26) COMPANY: International A.L.E.R.T Academy; DOCKET NUMBER: 2012-2293-PST-E; IDENTIFIER: RN101193167; LOCATION: Big Sandy, Upshur County; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$3,975; ENFORCEMENT COORDINATOR: John Fennell, (512) 239-2616; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(27) COMPANY: KEPR CORPORATION dba Ore City Fina; DOCKET NUMBER: 2012-2335-PST-E; IDENTIFIER: RN101724003; LOCATION: Ore City, Upshur County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$6,000; ENFORCEMENT COORDINATOR: Jorge Ibarra, P.E., (817) 588-5890; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(28) COMPANY: Khalil El-Kasih dba C & D Grocery; DOCKET NUMBER: 2012-2154-PST-E; IDENTIFIER: RN102248028; LOCATION: Pattison, Waller County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(b) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to provide release detection for the suction piping associated with the USTs; PENALTY: \$3,891; ENFORCEMENT COORDINATOR: John Fennell, (512) 239-2616; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(29) COMPANY: Legend Natural Gas III, LP; DOCKET NUMBER: 2012-1305-AIR-E; IDENTIFIER: RN106405962 (Site 1), RN106406044 (Site 2), and RN106406341 (Site 3); LOCATION: Encinal, Webb County; TYPE OF FACILITY: gas production; RULE VIOLATED: 30 TAC §116.110(a)(4), and Texas Health and Safety Code (THSC), §382.0518(a) and §382.085(b), by failing to satisfy the conditions of a Permit by Rule prior to operating a source of air contaminants at Sites 1, 2, and 3; and 30 TAC §101.20(1), 40 Code of Federal Regulations §60.8(a) and §60.4243(a)(2)(iii), and THSC, §382.085(b), by failing to conduct an initial performance test within one year of initial engine start-up at Sites 1, 2, and 3; PENALTY: \$3,450; ENFORCEMENT COORDINATOR: Amancio R. Gutierrez, (512) 239-3921; REGIONAL OFFICE: 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(30) COMPANY: M-N-J GROCERY CORPORATION; DOCKET NUMBER: 2012-2430-PST-E; IDENTIFIER: RN101699411; LOCA-

TION: McDade, Bastrop County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$3,880; ENFORCEMENT COORDINATOR: John Fennell, (512) 239-2616; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, (512) 339-2929.

(31) COMPANY: Motiva Enterprises LLC; DOCKET NUMBER: 2011-1461-AIR-E; IDENTIFIER: RN100209451; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: oil refinery; RULE VIOLATED: 30 TAC §§101.20(3), 116.715(a) and (c)(7), and 122.143(4), Texas Health and Safety Code (THSC), §382.085(b), Federal Operating Permit (FOP) Number O1386, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 16A, and Air Flexible Permit Numbers 8404 and PSD-TX-1062, Special Conditions (SC) Numbers 1 and 31.B., by failing to comply with permitted emissions limits; 30 TAC §§101.20(3), 116.715(a) and (c)(7), and 122.143(4), THSC, §382.085(b), FOP Number O1386, GTC and STC Number 16A, and Air Flexible Permit Numbers 8404 and PSD-TX-1062, SC Numbers 1 and 40, by failing to comply with the conditions of a permit; and 30 TAC §122.121 and §122.130(b) and THSC, §382.054 and §382.085(b), by failing to obtain a FOP to operate Tank Number 2094; PENALTY: \$92,450; Supplemental Environmental Project offset amount of \$36,980 applied to Southeast Texas Regional Planning Commission - West Port Arthur Home Energy Efficiency Program; ENFORCEMENT COORDINATOR: Rebecca Johnson, (361) 825-3423; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(32) COMPANY: Ms. Molly's LLC; DOCKET NUMBER: 2012-0915-PWS-E; IDENTIFIER: RN104909882; LOCATION: Columbus, Colorado County; TYPE OF FACILITY: restaurant with a public water supply; RULE VIOLATED: 30 TAC §290.106(e), by failing to provide the results of annual nitrate/nitrite monitoring to the TCEQ's executive director for the 2010 and 2011 reporting periods; and 30 TAC §290.51(a)(6) and TWC, §5.702, by failing to pay Public Health Service fees for TCEQ Financial Administration Account Numbers 90450092 and 23605374 for Fiscal Years 2011 and 2012; PENALTY: \$256; ENFORCEMENT COORDINATOR: Katy Schumann, (512) 239-2602; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(33) COMPANY: MUNISH ENTERPRISES, INCORPORATED dba Pitt Stop; DOCKET NUMBER: 2012-2059-PST-E; IDENTIFIER: RN101442713; LOCATION: Evadale, Jasper County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide proper corrosion protection for the underground storage tank (UST) system; and 30 TAC §334.10(b), by failing to maintain UST records and making them immediately available for inspection upon request by agency personnel; PENALTY: \$3,150; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(34) COMPANY: Northtown Municipal Utility District; DOCKET NUMBER: 2012-2391-WQ-E; IDENTIFIER: RN102178142; LOCATION: Austin, Travis County; TYPE OF FACILITY: wastewater collection system with an associated lift station; RULE VIOLATED: TWC, §26.121(a)(1), by failing to prevent the unauthorized discharge of wastewater from the system into or adjacent to water in the state; PENALTY: \$4,875; ENFORCEMENT COORDINATOR: Steve Vil-

lato, (512) 239-4930; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, (512) 339-2929.

(35) COMPANY: Postive Feed, Ltd.; DOCKET NUMBER: 2012-2604-IWD-E; IDENTIFIER: RN100576644; LOCATION: Sealy, Austin County; TYPE OF FACILITY: cattle feed manufacturing plant; RULE VIOLATED: 30 TAC §305.125(17) and §319.7(d), and Texas Pollutant Discharge Elimination System Permit Number WQ0002314000, Monitoring and Reporting Requirements Number 1, by failing to timely submit monitoring results at the intervals specified in the permit; PENALTY: \$800; ENFORCEMENT COORDINATOR: Christopher Bost, (512) 239-4575; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(36) COMPANY: Punjton, Incorporated dba Lucky Stop; DOCKET NUMBER: 2012-2112-PST-E; IDENTIFIER: RN102052420; LOCATION: Bellville, Austin County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,813; ENFORCEMENT COORDINATOR: Heather Podlipny, (512) 239-2603; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(37) COMPANY: Rio Grande Valley Sugar Growers, Incorporated; DOCKET NUMBER: 2012-2517-AIR-E; IDENTIFIER: RN100825405; LOCATION: Santa Rosa, Hidalgo County; TYPE OF FACILITY: sugar cane processing mill; RULE VIOLATED: Federal Operating Permit (FOP) Number O995, General Terms and Conditions (GTC) and Special Terms and Conditions Number 10, 30 TAC §122.143(4) and §122.146(1), and Texas Health and Safety Code (THSC), §382.085(b), by failing to certify compliance with the terms and conditions of the permit for at least each 12-month period; and FOP Number O995, GTC, 30 TAC §122.143(4) and §122.145(2)(A), and THSC, §382.085(b), by failing to submit a semi-annual deviation report; PENALTY: \$7,150; ENFORCEMENT COORDINATOR: Rebecca Johnson, (361) 825-3423; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(38) COMPANY: SIMRAH CORPORATION, INCORPORATED dba Jim's E-Z Way; DOCKET NUMBER: 2012-2196-PST-E; IDENTIFIER: RN102035631; LOCATION: Killeen, Bell County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide proper corrosion protection for the underground storage tank (UST) system; and 30 TAC §334.10(b), by failing to maintain UST records and making them immediately available for inspection upon request by agency personnel; PENALTY: \$5,000; ENFORCEMENT COORDINATOR: Joel McAlister, (512) 239-2619; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(39) COMPANY: Skidmore Water Supply Corporation; DOCKET NUMBER: 2012-2078-MWD-E; IDENTIFIER: RN102342201; LOCATION: Skidmore, Bee County; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0014112001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limits; PENALTY: \$6,375; ENFORCEMENT COORDINATOR: Christopher Bost, (512) 239-4575; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(40) COMPANY: SOUTHWEST MARKETERS, INCORPORATED dba Alamo Grocery; DOCKET NUMBER: 2012-2325-PST-E; IDENTIFIER: RN101875110 (Facility 1), RN101907210 (Facility 2), and

RN101877405 (Facility 3); LOCATION: Fort Stockton, Pecos County; TYPE OF FACILITY: convenience stores with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide proper corrosion protection for the underground storage tank systems at Facilities 1, 2, and 3; PENALTY: \$13,500; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(41) COMPANY: TCS #1 MANAGEMENT COMPANY, L.L.C. dba Texas Country Store 1; DOCKET NUMBER: 2012-2488-PST-E; IDENTIFIER: RN102791191; LOCATION: Orange, Orange County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.72, by failing to report a suspected release to the TCEQ within 24 hours of discovery; PENALTY: \$4,600; ENFORCEMENT COORDINATOR: Had Darling, (512) 239-2570; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(42) COMPANY: TEXAS INDUSTRIAL BOX MAINTENANCE, INCORPORATED; DOCKET NUMBER: 2013-0112-IWD-E; IDENTIFIER: RN103071825; LOCATION: Channelview, Harris County; TYPE OF FACILITY: waste container cleaning and repair; RULE VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge storm water associated with industrial activities under the Texas Pollutant Discharge Elimination System Multi-Sector General Permit Number TXR050000; PENALTY: \$1,625; ENFORCEMENT COORDINATOR: Lanae Foard, (512) 239-2554; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(43) COMPANY: Toyo Ink America LLC; DOCKET NUMBER: 2013-0278-WQ-E; IDENTIFIER: RN105156707; LOCATION: Bryan, Brazos County; TYPE OF FACILITY: manufacturing; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a Multi-Sector General Permit (stormwater); PENALTY: \$875; ENFORCEMENT COORDINATOR: Harvey Wilson, (512) 239-0321; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(44) COMPANY: Verizon Business Network Services, Incorporated; DOCKET NUMBER: 2012-2583-PST-E; IDENTIFIER: RN102780004; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: telecommunications facility with an emergency generator; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(b) and (c)(1), by failing to monitor the underground storage tank (UST) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to provide release detection for the suction piping associated with the UST system; PENALTY: \$3,000; ENFORCEMENT COORDINATOR: Brianna Carlson, (956) 430-6021; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3421, (806) 796-7092.

(45) COMPANY: Vu Tran dba K&M Food Mart; DOCKET NUMBER: 2012-2267-PST-E; IDENTIFIER: RN102246972; LOCATION: Willis, Montgomery County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank (UST) system; and 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(b) and (c)(1), by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to provide release detection for the suction piping associated with the UST system; PENALTY: \$5,947; ENFORCEMENT COORDINATOR: Nick Nevid, (512) 239-2612; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(46) COMPANY: XUAN, INCORPORATED; DOCKET NUMBER: 2011-1840-PST-E; IDENTIFIER: RN101824951; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance in to the USTs; 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of USTs; and 30 TAC §334.49(a)(1), by failing to provide proper corrosion protection for the UST system; PENALTY: \$10,317; ENFORCEMENT COORDINATOR: Elvia Maske, (512) 239-0789; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

TRD-201300881

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: February 26, 2013



Enforcement Orders

An agreed order was entered regarding DUNLAP-SWAIN TIRE COMPANY, INC. dba Dunlap Swain 14, Docket No. 2010-0757-PST-E on February 6, 2013 assessing \$2,354 in administrative penalties with \$470 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Meyer, Enforcement Coordinator at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Marlow Oil Distributor, Inc., Docket No. 2012-0145-PST-E on February 6, 2013 assessing \$2,250 in administrative penalties with \$450 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (361) 825-3423, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Minesh Patel and Nayna Patel dba Time Saver Grocery, Docket No. 2012-0607-PWS-E on February 6, 2013 assessing \$1,401 in administrative penalties with \$279 deferred.

Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Federal Aviation Administration Houston Tracoon District 190, Docket No. 2012-0686-PST-E on February 6, 2013 assessing \$1,875 in administrative penalties with \$375 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (254) 761-3034, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding EM Biogas, LLC and Biosolids Management Group, Inc., Docket No. 2012-0761-IHW-E on February

6, 2013 assessing \$6,750 in administrative penalties with \$1,350 deferred.

Information concerning any aspect of this order may be obtained by contacting Mike Pace, Enforcement Coordinator at (817) 588-5933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Neighborhood Real Estate Holdings, LLC dba Sunco Marketplace 1, Docket No. 2012-0824-PST-E on February 6, 2013 assessing \$5,233 in administrative penalties with \$1,046 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Ajmer S. Mattu dba Roberts Grocery, Docket No. 2012-1002-PST-E on February 6, 2013 assessing \$4,005 in administrative penalties with \$801 deferred.

Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-5717, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SUNSHINE STORES, INC. dba Sunshine Grocery Buna, Docket No. 2012-1052-PST-E on February 6, 2013 assessing \$2,500 in administrative penalties with \$500 deferred.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Ohmstede Ltd., Docket No. 2012-1104-IWD-E on February 6, 2013 assessing \$4,170 in administrative penalties with \$834 deferred.

Information concerning any aspect of this order may be obtained by contacting Steve Villatoro, Enforcement Coordinator at (512) 239-4930, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding American Food Mart, Inc. dba A F M, Docket No. 2012-1122-PST-E on February 6, 2013 assessing \$1,625 in administrative penalties with \$325 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Equistar Chemicals, LP, Docket No. 2012-1127-AIR-E on February 6, 2013 assessing \$6,563 in administrative penalties with \$1,312 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Arturo Alemany and San Pedro Canyon Water Company, Docket No. 2012-1128-PWS-E on February 6, 2013 assessing \$1,373 in administrative penalties with \$274 deferred.

Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-

2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Farmland Fuels, LLC dba Green Spot Market & Fuels, Docket No. 2012-1148-PST-E on February 6, 2013 assessing \$2,250 in administrative penalties with \$450 deferred.

Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (713) 767-3682, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding KING FUELS, INC. dba Stubby's 9, Docket No. 2012-1161-PST-E on February 6, 2013 assessing \$5,850 in administrative penalties with \$1,170 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Addison Enterprises Inc. dba C Store Royal, Docket No. 2012-1179-PST-E on February 6, 2013 assessing \$3,550 in administrative penalties with \$710 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Rafidi Enterprises, LLC dba Grande Mart, Docket No. 2012-1201-PST-E on February 6, 2013 assessing \$2,250 in administrative penalties with \$450 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Huntsman Petrochemical LLC, Docket No. 2012-1230-AIR-E on February 6, 2013 assessing \$6,563 in administrative penalties with \$1,312 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Charles Sanderson dba Pronto's Convenience Store, Docket No. 2012-1242-PST-E on February 6, 2013 assessing \$5,754 in administrative penalties with \$1,150 deferred.

Information concerning any aspect of this order may be obtained by contacting JR Cao, Enforcement Coordinator at (512) 239-2543, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding AMITA INVESTMENTS, INC. dba Bay City Chevron, Docket No. 2012-1249-PST-E on February 6, 2013 assessing \$3,959 in administrative penalties with \$791 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Meyer, Enforcement Coordinator at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Waller County Road Improvement District 1, Docket No. 2012-1255-MWD-E on February 6, 2013 assessing \$2,500 in administrative penalties with \$500 deferred.

Information concerning any aspect of this order may be obtained by contacting Remington Burklund, Enforcement Coordinator at (512) 239-2611, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ABEST Corporation dba Granbury Chevron, Docket No. 2012-1282-PST-E on February 6, 2013 assessing \$6,562 in administrative penalties with \$1,312 deferred.

Information concerning any aspect of this order may be obtained by contacting Sarah Davis, Enforcement Coordinator at (512) 239-1653, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding The Middlesteadt Shopping Center, LP, Docket No. 2012-1301-MWD-E on February 6, 2013 assessing \$3,725 in administrative penalties with \$745 deferred.

Information concerning any aspect of this order may be obtained by contacting Nick Nevid, Enforcement Coordinator at (512) 239-2612, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Bexar County Hospital District, Docket No. 2012-1311-PST-E on February 6, 2013 assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting Thomas Greimel, Enforcement Coordinator at (512) 239-5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding B & B True, Inc. dba Dallas C Store 110, Docket No. 2012-1317-PST-E on February 6, 2013 assessing \$7,008 in administrative penalties with \$1,401 deferred.

Information concerning any aspect of this order may be obtained by contacting JR Cao, Enforcement Coordinator at (512) 239-2543, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BLESSINGS, INC. dba Evergreen Convenience Store, Docket No. 2012-1331-PST-E on February 6, 2013 assessing \$2,943 in administrative penalties with \$588 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Meyer, Enforcement Coordinator at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding North Texas Premier Soccer Association, Inc., Docket No. 2012-1348-AIR-E on February 6, 2013 assessing \$1,000 in administrative penalties with \$200 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Schildwachter, Enforcement Coordinator at (512) 239-2617, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sanhedrin II, L.P. dba Park Six West, Docket No. 2012-1351-PWS-E on February 6, 2013 assessing \$450 in administrative penalties with \$90 deferred.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sportsman's World Municipal Utility District, Docket No. 2012-1360-IWD-E on February 6, 2013 assessing \$1,362 in administrative penalties with \$272 deferred.

Information concerning any aspect of this order may be obtained by contacting Nick Nevid, Enforcement Coordinator at (512) 239-2612, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Central Park Company, L.P. dba 75 & Parker, Docket No. 2012-1368-PST-E on February 6, 2013 assessing \$3,882 in administrative penalties with \$776 deferred.

Information concerning any aspect of this order may be obtained by contacting Jorge Ibarra, P.E., Enforcement Coordinator at (817) 588-5890, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding PRASEK'S HILLJE SMOKEHOUSE, INC. dba Hillje Smokehouse, Docket No. 2012-1379-PST-E on February 6, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Joel McAlister, Enforcement Coordinator at (512) 239-2619, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding AHAD ENTERPRISES, INC. dba Quick & Easy 3, Docket No. 2012-1380-PST-E on February 6, 2013 assessing \$3,349 in administrative penalties with \$669 deferred.

Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-5717, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Henrietta, Docket No. 2012-1390-MWD-E on February 6, 2013 assessing \$4,185 in administrative penalties with \$837 deferred.

Information concerning any aspect of this order may be obtained by contacting Jennifer Graves, Enforcement Coordinator at (956) 430-6023, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Southern Foods Group, LLC dba Southwest Ice Cream Specialties, Docket No. 2012-1391-PST-E on February 6, 2013 assessing \$5,000 in administrative penalties with \$1,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Theresa Stephens, Enforcement Coordinator at (512) 239-2540, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Entergy Texas, Inc. dba Woodlands Service Center, Docket No. 2012-1399-PST-E on February 6, 2013 assessing \$3,375 in administrative penalties with \$675 deferred.

Information concerning any aspect of this order may be obtained by contacting Jill Russell, Enforcement Coordinator at (512) 239-4564, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding S. N. R. ENTERPRISES, INC. dba Star Food Mart, Docket No. 2012-1430-PST-E on February 6, 2013 assessing \$3,880 in administrative penalties with \$776 deferred.

Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (512) 239-2578, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Asash Termite & Pest Control Co., Inc., Docket No. 2012-1432-PST-E on February 6, 2013 assessing \$3,143 in administrative penalties with \$628 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Schildwachter, Enforcement Coordinator at (512) 239-2617, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Graves Long Mountain Properties, LLC, Docket No. 2012-1437-PWS-E on February 6, 2013 assessing \$350 in administrative penalties with \$70 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Endeavor Energy Resources, L.P., Docket No. 2012-1449-AIR-E on February 6, 2013 assessing \$1,875 in administrative penalties with \$375 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Schildwachter, Enforcement Coordinator at (512) 239-2617, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mark Guess dba Guess Calf Ranch, Docket No. 2012-1452-AGR-E on February 6, 2013 assessing \$2,000 in administrative penalties with \$400 deferred.

Information concerning any aspect of this order may be obtained by contacting Steve Villatoro, Enforcement Coordinator at (512) 239-4930, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of San Augustine, Docket No. 2012-1458-MWD-E on February 6, 2013 assessing \$4,034 in administrative penalties with \$806 deferred.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Green, Enforcement Coordinator at (512) 239-2587, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CHAPPELL HILL WATER SUPPLY CORPORATION, Docket No. 2012-1465-PWS-E on February 6, 2013 assessing \$888 in administrative penalties with \$177 deferred.

Information concerning any aspect of this order may be obtained by contacting Katy Schumann, Enforcement Coordinator at (512) 239-2602, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding KELSIE TRACTOR COMPANY, INC. dba Kelsie Oil Johnny Joes 1, Docket No. 2012-1481-PST-E on February 6, 2013 assessing \$1,231 in administrative penalties with \$246 deferred.

Information concerning any aspect of this order may be obtained by contacting Andrea Park, Enforcement Coordinator at (713) 422-8970, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Ozturk Inc. dba Kwik Mart, Docket No. 2012-1482-PST-E on February 6, 2013 assessing \$5,625 in administrative penalties with \$1,125 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583,

Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Pflugerville, Docket No. 2012-1486-MWD-E on February 6, 2013 assessing \$2,375 in administrative penalties with \$475 deferred.

Information concerning any aspect of this order may be obtained by contacting Remington Burklund, Enforcement Coordinator at (512) 239-2611, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Arkema Inc., Docket No. 2012-1492-PWS-E on February 6, 2013 assessing \$150 in administrative penalties with \$30 deferred.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villareal, Enforcement Coordinator at (361) 825-3425, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hueco Quarry, Inc., Docket No. 2012-1499-AIR-E on February 6, 2013 assessing \$1,801 in administrative penalties with \$360 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Moody, Docket No. 2012-1520-PWS-E on February 6, 2013 assessing \$120 in administrative penalties with \$24 deferred.

Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Stamford, Docket No. 2012-1521-PWS-E on February 6, 2013 assessing \$160 in administrative penalties with \$32 deferred.

Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding G. P. Plastics Corporation, Docket No. 2012-1553-AIR-E on February 6, 2013 assessing \$1,312 in administrative penalties with \$262 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (361) 825-3423, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding BK and Brothers, Inc. dba Jubilee Mart, Docket No. 2012-1571-PST-E on February 6, 2013 assessing \$1,750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Joel McAlister, Enforcement Coordinator at (512) 239-2619, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Canyon West Golf Club, Inc., Docket No. 2012-1583-WR-E on February 6, 2013 assessing \$500 in administrative penalties with \$100 deferred.

Information concerning any aspect of this order may be obtained by contacting JR Cao, Enforcement Coordinator at (512) 239-2543, Texas

Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Douglas A. Bateman dba Bateman Water Works, Docket No. 2012-1589-PWS-E on February 6, 2013 assessing \$590 in administrative penalties with \$118 deferred.

Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Nocona, Docket No. 2012-1627-MWD-E on February 6, 2013 assessing \$3,352 in administrative penalties with \$670 deferred.

Information concerning any aspect of this order may be obtained by contacting Jill Russell, Enforcement Coordinator at (512) 239-4564, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding K T T ENTERPRISE, INC. dba Orem Food Mart, Docket No. 2012-1653-PST-E on February 6, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Elvia Maske, Enforcement Coordinator at (512) 239-0789, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DALCO SOLVENTS & CHEMICALS, INC., Docket No. 2012-1661-DCL-E on February 6, 2013 assessing \$1,000 in administrative penalties with \$200 deferred.

Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (713) 767-3682, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding City of Stephenville, Docket No. 2012-1925-WQ-E on February 6, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding NuStar Logistics, L.P., Docket No. 2012-1929-PST-E on February 6, 2013 assessing \$1,750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding BUC-EES LTD, Docket No. 2012-1969-PST-E on February 6, 2013 assessing \$5,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Southern Star Concrete, Inc., Docket No. 2012-1985-PST-E on February 6, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-

2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Leonard M. Johnson, Docket No. 2012-2005-WOC-E on February 6, 2013 assessing \$175 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding AKZO Nobel Paints LLC, Docket No. 2012-2031-WQ-E on February 6, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Ricky W I Kirby, Docket No. 2012-2035-OSI-E on February 6, 2013 assessing \$175 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding KHB PARTNERS II LTD, Docket No. 2012-2038-WQ-E on February 6, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Brian D. Hilliard, Docket No. 2012-2046-WOC-E on February 6, 2013 assessing \$175 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding P. F. & E. OIL CO. dba Food Plaza 10, Docket No. 2012-2066-PST-E on February 6, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding City of Gonzales, Docket No. 2012-2087-WQ-E on February 6, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Deer Park ISD, Docket No. 2012-2098-PST-E on February 6, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Maggie Dennis, Enforcement Coordinator at (512)

239-2578, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding DALTON OIL, INC., Docket No. 2012-2113-PST-E on February 6, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Woodside Homes of South Texas LLC, Docket No. 2012-2139-WQ-E on February 6, 2013 assessing \$875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Federal Bureau of Prisons, Docket No. 2012-2279-PST-E on February 6, 2013 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Tawakoni Waste Water Corporation, Docket No. 2010-1255-MWD-E on February 19, 2013 assessing \$22,935 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jim Sallans, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BABWANI ASSOCIATES, INC. dba McCart Food Store, Docket No. 2011-0684-PST-E on February 19, 2013 assessing \$31,820 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Anna M. Treadwell, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ALPHA OMEGA RECYCLING, INC., Docket No. 2011-1015-IHW-E on February 19, 2013 assessing \$18,750 in administrative penalties with \$3,750 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Meyer, Enforcement Coordinator at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Lockney, Docket No. 2011-1387-MWD-E on February 19, 2013 assessing \$20,475 in administrative penalties with \$4,095 deferred.

Information concerning any aspect of this order may be obtained by contacting JR Cao, Enforcement Coordinator at (512) 239-2543, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sandy Kowalick and Southeast Texas Trees LLC, Docket No. 2011-1629-MSW-E on February 19, 2013 assessing \$16,800 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jeffrey Huhn, Staff Attorney at (512) 239-3400, Texas Com-

mission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SWEETWATER CORPORATION, Docket No. 2011-1636-MLM-E on February 19, 2013 assessing \$91,962 in administrative penalties with \$85,813 deferred.

Information concerning any aspect of this order may be obtained by contacting Elvia Maske, Enforcement Coordinator at (512) 239-0789, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Celina, Docket No. 2011-1643-MWD-E on February 19, 2013 assessing \$26,030 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (254) 761-3034, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Hawk Cove, Docket No. 2011-1708-MWD-E on February 19, 2013 assessing \$35,790 in administrative penalties with \$35,790 deferred.

Information concerning any aspect of this order may be obtained by contacting Tammy L. Mitchell, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Robert Maxey dba J & H Auto Repair, Docket No. 2011-1737-PST-E on February 19, 2013 assessing \$6,900 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Elizabeth Lieberknecht, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ZZQ Enterprises, Inc. dba Mini Mart Food Store, Docket No. 2011-1748-PST-E on February 19, 2013 assessing \$16,070 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tammy L. Mitchell, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default and shutdown order was entered regarding Sylvan I-30 Enterprises, Inc. dba Texaco Sylvan, Docket No. 2011-1966-PST-E on February 19, 2013 assessing \$19,426 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rudy Calderon, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Monarch Utilities I.L.P., Docket No. 2011-2189-MWD-E on February 19, 2013 assessing \$29,800 in administrative penalties with \$5,960 deferred.

Information concerning any aspect of this order may be obtained by contacting Jennifer Graves, Enforcement Coordinator at (956) 430-6023, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding United States Postal Service, Docket No. 2011-2234-PWS-E on February 19, 2013 assessing \$3,864 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Katy Schumann, Enforcement Coordinator at (512) 239-

2602, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Virginia Franklin Fuller dba Franklin Water Systems 1 and dba Franklin Water Systems 3, Docket No. 2012-0171-PWS-E on February 19, 2013 assessing \$5,381 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rudy Calderon, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding New Siara Properties, LP and Mainland Petroleum Inc dba Noor Pantry Texaco, Docket No. 2012-0459-PST-E on February 19, 2013 assessing \$16,477 in administrative penalties with \$3,295 deferred.

Information concerning any aspect of this order may be obtained by contacting Bridget Lee, Enforcement Coordinator at (512) 239-2565, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Christina Ndidi-Amaka Awodein, Docket No. 2012-0611-MWD-E on February 19, 2013 assessing \$16,800 in administrative penalties with \$3,360 deferred.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Green, Enforcement Coordinator at (512) 239-2587, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Targa Downstream LLC, Docket No. 2012-0654-AIR-E on February 19, 2013 assessing \$30,264 in administrative penalties with \$6,052 deferred.

Information concerning any aspect of this order may be obtained by contacting Kimberly Morales, Enforcement Coordinator at (713) 422-8938, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hearthstone Properties, Delaware, LLC, Docket No. 2012-0691-MSW-E on February 19, 2013 assessing \$7,750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jeffrey Huhn, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Brazoria, Docket No. 2012-0703-MWD-E on February 19, 2013 assessing \$9,920 in administrative penalties with \$1,984 deferred.

Information concerning any aspect of this order may be obtained by contacting Lanae Foard, Enforcement Coordinator at (512) 239-2554, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding UNIVERSAL MOLDING COMPANY, INC. dba International Extrusion Corp, Docket No. 2012-0744-IHW-E on February 19, 2013 assessing \$12,125 in administrative penalties with \$2,425 deferred.

Information concerning any aspect of this order may be obtained by contacting Maggie Dennis, Enforcement Coordinator at (512) 239-2578, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DLUGOSCH III, LLC dba The Texan, Docket No. 2012-0875-PST-E on February 19, 2013 assessing \$43,265 in administrative penalties with \$8,653 deferred.

Information concerning any aspect of this order may be obtained by contacting Andrea Park, Enforcement Coordinator at (713) 422-8970, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding B-S CARTAGE, INC. dba J-V Dirt and Loam, Docket No. 2012-0898-MSW-E on February 19, 2013 assessing \$11,780 in administrative penalties with \$2,356 deferred.

Information concerning any aspect of this order may be obtained by contacting Clinton Sims, Enforcement Coordinator at (512) 239-6933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Jetta Operating Company, Inc., Docket No. 2012-0951-AIR-E on February 19, 2013 assessing \$16,075 in administrative penalties with \$3,215 deferred.

Information concerning any aspect of this order may be obtained by contacting Nadia Hameed, Enforcement Coordinator at (713) 767-3629, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding NEW WILLIAMS TRACE ENTERPRISES INC dba Mel's Market, Docket No. 2012-0994-PST-E on February 19, 2013 assessing \$10,763 in administrative penalties with \$2,152 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Wyman-Gordon Forgings, Inc., Docket No. 2012-1056-IWD-E on February 19, 2013 assessing \$22,687 in administrative penalties with \$4,537 deferred.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Green, Enforcement Coordinator at (512) 239-2587, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Texas Barge & Boat, Inc., Docket No. 2012-1167-AIR-E on February 19, 2013 assessing \$8,542 in administrative penalties with \$1,708 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Crockett County Consolidated Independent School District, Docket No. 2012-1200-PST-E on February 19, 2013 assessing \$7,751 in administrative penalties with \$1,550 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201300891

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 27, 2013



Notice of Water Quality Applications

The following notices were issued on February 15, 2013 through February 22, 2013.

The following require the applicants to publish notice in a newspaper. Public comments, requests for public meetings, or requests for a contested case hearing may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE.

INFORMATION SECTION

RESCAR INDUSTRIES which operates a railcar cleaning and repair facility, has applied for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0001922000, which authorizes the discharge of treated and untreated wastewater, and uncontaminated storm water at a daily maximum flow not to exceed 100,000 gallons per day via Outfall 001. The facility is located at 407 West Brentwood, southwest of the intersection of West Brentwood Drive and the Union-Pacific Railroad, approximately one (1) mile east of Beltway 8 in the City of Channelview, Harris County, Texas.

CHEVRON PHILLIPS CHEMICAL COMPANY LP which operates Chevron Phillips Chemical Company Terminal, a dock and terminal facility for aromatic hydrocarbons, has applied for a renewal of TPDES Permit No. WQ0004327000, which authorizes the discharge of stormwater associated with industrial activity and hydrostatic test water on an intermittent and flow variable basis via Outfalls 001 and 002. Located on Coke Dock Road, 3/4 miles southwest of the intersection of State Highway 82 and West 7th Street in the City of Port Arthur, Jefferson County, Texas 77640.

CITY OF THREE RIVERS has applied for a renewal of TPDES Permit No. WQ0010301002, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day. The facility is located approximately 4,400 feet north from the intersection of State Highway 72 and Avenida Guadalupe to its terminus and is adjacent to the Union Pacific Railroad in Live Oak County, Texas 78071.

CITY OF AUSTIN has applied for a renewal of TPDES Permit No. WQ0010543014, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 3,000,000 gallons per day. The facility will be located approximately three miles east of Farm-to-Market Road 973, approximately one mile north of Farm-to-Market Road 969 and approximately 1.7 miles west of Burleson-Manor Road in Travis County, Texas 78653.

NORTHAMPTON MUNICIPAL UTILITY DISTRICT has applied for a major amendment to TPDES Permit No. 10910-001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 750,000 gallons per day to an annual average flow not to exceed 1,150,000 gallons per day and to remove effluent limitations and monitoring requirements for silver. The facility is located at 24235 Gosling Road, on the north bank of Willow Creek approximately 1,200 feet upstream of the Gosling Road crossing of the Willow Creek in Harris County, Texas.

FORT DAVIS WATER SUPPLY CORPORATION has applied for a renewal of TPDES Permit No. WQ0010971001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 123,000 gallons per day. The facility is located at 500 North Military Drive, one mile south of State Highway 17, approximately 500 feet north of Cemetery Road and 0.5 mile east of Fort Davis in Jeff Davis County, Texas 79734.

LEVERETT'S CHAPEL INDEPENDENT SCHOOL DISTRICT has applied for a renewal of TPDES Permit No. WQ0011113001, which

authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 6,000 gallons per day. The facility is located at 8959 Highway 42/135 North, approximately 400 feet east of State Highway 42, approximately 7,500 feet north of the intersection of State Highway 135 and 42, northeast of the City of Overton in Rusk County, Texas 75684.

KLEINWOOD JOINT POWERS BOARD has applied for a renewal of TPDES Permit No. WQ0011409001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 5,000,000 gallons per day. The facility is located at 15905 Squyres, approximately 5,000 feet upstream from the crossing of Stuebner-Airline Road and Cypress Creek on the north bank of Cypress Creek in Harris County, Texas 77379.

LA CASITA HOLDINGS INC has applied for a renewal of TPDES Permit No. WQ0013709001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 10,000 gallons per day. The facility is located in an enclosed structure between Apartments 10 and 11 at 3557 Frick Road, approximately 1.7 miles west of the intersection of Frick Road and Stuebner-Airline Road in Harris County, Texas 77086.

HARRIS-FORT BEND COUNTIES MUNICIPAL UTILITY DISTRICT NO 3 has applied for a renewal of TPDES Permit No. WQ0014301001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 990,000 gallons per day. The facility is located at 527 New Hope Lane, Katy, approximately 2,000 feet south of Interstate Highway 10 and 3,300 feet east of Katy-Ft. Bend Road; approximately 4,000 feet southeast of the intersection of Interstate Highway 10 and Katy-Ft. Bend Road in Harris County, Texas 77494.

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO 165 has applied for a renewal of TPDES Permit No. WQ0014583001 which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,000,000 gallons per day. The facility is located at 8402 1/2 Greenhouse Road, approximately 9,000 feet north/northwest of the Farm-to-Market Road 529 crossing of Langham Creek in the City of Cypress in Harris County, Texas 77433.

LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION LTD has applied for a new permit, proposed TPDES Permit No. WQ0015065001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 600,000 gallons per day. The facility will be located 3,700 feet east of the intersection of Roman Forest Boulevard and U.S. Highway 59 in Montgomery County, Texas 77357.

SCHERTZ AND SEGUIN LOCAL GOVERNMENT CORPORATION has applied for a renewal of TPDES Permit No. WQ0014836001, which authorizes the discharge of treated filter backwash effluent from a water treatment plant at a daily average flow not to exceed 1,500,000 gallons per day. The facility is located at 2130 County Road 127, approximately two miles north of Farm-to-Market Road 1117, Nixon in Gonzales County, Texas 78140.

If you need more information about these permit applications or the permitting process, please call the TCEQ Public Education Program, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.TCEQ.texas.gov. Si desea información en español, puede llamar al 1-800-687-4040.

TRD-201300890

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 27, 2013

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General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439-1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following projects during the period of February 11, 2013 through February 22, 2013. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period extends 30 days from the date published on the General Land Office's web site. The notice was published on the web site on February 27, 2013. The public comment period for this project will close at 5:00 p.m. on March 29, 2013.

FEDERAL AGENCY ACTIONS:

Applicant: Port Bolivar Marine Services; Location: The project site is located in a barge slip outside of the Gulf Intracoastal Waterway (GIWW) right-of-way at 1436 John Wayne Road, in Port Bolivar, Galveston County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Flake, Texas. Latitude: 29.40532 North; Longitude 94.74308 West. Project Description: The applicant proposes to excavate approximately 16,878 cubic yards of material for the purpose of maintenance dredging within an existing barge maintenance facility. Dredging is necessary to maintain operational capacity at the barge dock to maintain a depth of 10 feet below mean low tide.

CMP Project No.: 13-1044-F1

Type of Application: U.S.A.C.E. permit application #SWG-2001-00874 is being evaluated under §10 of the Rivers and Harbors Act of 1899 and §404 of the Clean Water Act (CWA).

Applicant: SPI Bayside Ventures; Location: The project site is located in the Laguna Madre and its adjacent wetland, at 1201 Padre Boulevard, South Padre Island, Cameron County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Port Isabel, Texas. Latitude: 26.093537 North; Longitude -94.166147 West. Project Description: The applicant proposes to discharge 21,000 cubic yards of fill material over 2.238 acres of jurisdictional wetlands in order to bring the project area to elevations suitable for development. The applicant proposed to then construct on the filed area and the adjacent uplands, a high-end 111-room hotel with meeting and event space with amenities such as pools/Jacuzzis, tennis courts, and a parking area, including approximately 164 parking spaces. The applicant further proposes to construct a 800-foot-long retaining wall located 350 feet west of their property boundary fronting Padre Boulevard.

CMP Project No.: 13-1049-F1

Type of Application: U.S.A.C.E. permit application #SWG-2010-00891 is being evaluated under §10 of the Rivers and Harbors Act of 1899 and §404 of the Clean Water Act (CWA).

Pursuant to §306(d)(14) of the Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451-1464), as amended, interested parties are invited to submit comments on whether a proposed action or activity is or is not consistent with the Texas Coastal Management Program goals and

policies and whether the action should be referred to the Land Commissioner for review.

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection may be obtained from Sheri Land, Director, P.O. Box 12873, Austin, Texas 78711-2873 or via email at federal.consistency@glo.texas.gov. Comments should be sent to Ms. Land at the above address or by email.

TRD-201300901

Larry L. Laine

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: February 27, 2013

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Notice and Opportunity to Comment on the Texas Coastal Impact Assistance Plan Amendment

Pursuant to 43 U.S.C. §1356a(c)(1)(B), as amended by the Energy Policy Act of 2005, the Governor of Texas must solicit local input and provide for public participation in the development of the FY 2009/FY 2010 Texas Coastal Impact Assistance Plan (Plan) amendment. Notice is thereby given that the General Land Office, on behalf of the Office of the Governor, is soliciting public comment regarding the Plan amendment. **All comments must be submitted by March 31, 2013.** A copy of the Plan and comment submission directions may be found at <http://www.glo.texas.gov/what-we-do/caring-for-the-coast/grants-funding/ciap/index.html>.

For more information on this matter, please contact Melissa Porter, General Land Office, Coastal Resources Division, (512) 475-1393.

TRD-201300900

Larry L. Laine

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: February 27, 2013

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Notice of Approval of Coastal Boundary Survey

Pursuant to §33.136 of the Texas Natural Resources Code, notice is hereby given that Jerry Patterson, Commissioner of the General Land Office, approved a coastal boundary survey described as follows:

A Coastal Boundary Survey, dated June 22, 2012, by William E. "Bill" Merten, Licensed State Land Surveyor, associated with Texas General Land Office, Lease No. SL20120046. The survey delineates portions of the littoral boundary of the Isaac F. W. Curd Survey, Abstract 170, along the line of Mean High Water on both shores of a strip of land, separating West Galveston Bay from Oyster Lake.

A Coastal Boundary Survey for the above-referenced project has been reviewed and accepted; upon completion of public notice requirements, the survey will be filed in the Texas General Land Office, Archives and Records, in accordance with provisions of the *Texas Natural Resources Code*, §33.136.

This survey is intended to provide pre-project baseline information related to an erosion response activity on coastal public lands. An owner of uplands adjoining the project area is entitled to continue to exercise littoral rights possessed prior to the commencement of the erosion response activity, but may not claim any additional land as a result of accretion, reliction, or avulsion resulting from the erosion response activity.

For a copy of this survey or more information on this matter, contact Bill O'Hara, Director of the Survey Division, Texas General Land Office, by phone at (512) 463-5223, email bill.o'hara@glo.texas.gov, or fax (512) 475-4619.

TRD-201300894

Larry L. Laine

Chief of Clerk, Deputy Land Commissioner

General Land Office

Filed: February 27, 2013



Notice of Approval of Coastal Boundary Survey

Pursuant to §33.136 of the Texas Natural Resources Code, notice is hereby given that Jerry Patterson, Commissioner of the General Land Office, approved a coastal boundary survey described as follows:

A Coastal Boundary Survey, dated September 22, 2012, by William E. "Bill" Merten, Licensed State Land Surveyor. The survey delineates portions of the littoral boundary of the Ritson Morris Survey, Abstract 52, along the line of Mean Higher High Water on the south bank of Hesters Gully, immediately east of and adjacent to Todville Road.

A Coastal Boundary Survey for the above-referenced project has been reviewed and accepted; upon completion of public notice requirements, the survey will be filed in the Texas General Land Office, Archives and Records, in accordance with provisions of the *Texas Natural Resources Code*, §33.136.

This survey is intended to provide pre-project baseline information related to an erosion response activity on coastal public lands. An owner of uplands adjoining the project area is entitled to continue to exercise littoral rights possessed prior to the commencement of the erosion response activity, but may not claim any additional land as a result of accretion, reliction, or avulsion resulting from the erosion response activity.

For a copy of this survey or more information on this matter, contact Bill O'Hara, Director of the Survey Division, Texas General Land Office, by phone at (512) 463-5223, email bill.o'hara@glo.texas.gov, or fax (512) 475-4619.

TRD-201300895

Larry L. Laine

Chief of Clerk, Deputy Land Commissioner

General Land Office

Filed: February 27, 2013



Request for Comments on the Luce Bayou Inter-Basin Transfer Project for Liberty and Harris Counties

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439-1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. This notice was published on the General Land Office's website on February 27, 2013, and the public comment period will close at 5:00 p.m. on March 29, 2013.

Draft Environmental Impact Statement (DEIS) Notice: Proposed construction of 26.5 mile water supply conveyance consisting of sub-surface pipeline and surface canal within a 300 ft. wide right of way from the Trinity River in Liberty County, Texas to Lake Houston in

Harris County, Texas. The proposed project would transfer water from the Trinity River basin to the San Jacinto River basin. A pump station would be constructed on the Trinity River at Capers Ridge approximately 10 miles north of Dayton, Texas. Water from the river would be conveyed by pipeline to a sedimentation basin and then conveyed by earthen canal to Lake Houston to a discharge point in the lake. The canal right of way would include canal side berms, a maintenance access roadway, drainage ditches, and a perimeter fencing surrounding the canal. A copy of the DEIS is available on the web page of the U.S. Army Corps of Engineers, Galveston District, at www.swg.usace.army.mil.

CMP Project No.: 13-0971.

Associated Application: U.S.A.C.E. permit application #SWG-2009-00188.

Applicant: Coastal Water Authority.

Written comments regarding the project's consistency with the CMP should be submitted to Sheri Land, General Land Office, Director, Coastal Resources Division, P.O. Box 12873, Austin, Texas 78711-2873 or via email to sheri.land@glo.texas.gov.

TRD-201300902

Larry L. Laine

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: February 27, 2013



Office of the Governor

Request for Applications to Support Certified Crime Stoppers Organizations During Fiscal Year 2014 Grant Cycle

The Criminal Justice Division (CJD) of the Governor's Office is soliciting grant applications to support certified Crime Stoppers organizations in Texas during the state fiscal year 2014 grant cycle.

Purpose: The purpose of the Crime Stoppers Assistance funding is to enhance and assist the community's efforts in solving serious crimes.

Available Funding: State funding is authorized for these projects under Article 102.013, Texas Code of Criminal Procedure, which designated CJD as the funds administering agency. The source of funding is a biennial appropriation by the Texas Legislature from funds collected through court costs and fees.

Funding Levels:

Minimum: \$1,500.

Maximum: \$10,000.

Required Match: No match is required for this program.

Standards: Grantees must comply with the standards applicable to this funding source cited in the *Texas Administrative Code* (1 TAC Chapter 3) and all statutes, requirements and guidelines applicable to this funding.

Prohibitions: Grant funds may not be used to support the following services, activities, and costs:

- 1) inherently religious activities such as prayer, worship, religious instruction, or proselytization;
- 2) lobbying and administrative advocacy;
- 3) promotional advertisements of any kind;
- 4) entertainment or refreshments;

- 5) subscription fees or dues;
- 6) fundraising activities;
- 7) office space rental and office furniture;
- 8) extended equipment services arrangements;
- 9) contributions;
- 10) purchase or improvement of real estate;
- 11) rewards, except for statewide projects; and
- 12) attorney fees.

Eligible Applicants: Crime Stoppers organizations as defined by §414.001(2) of the Texas Government Code that are certified by the Texas Crime Stoppers Council to receive repayments under Articles 37.073 and 42.152 of the Texas Code of Criminal Procedure or payments from a defendant under Article 42.12 of the Texas Code of Criminal Procedure. Section 414.001(2) of the Texas Government Code defines a "crime stoppers organization" as follows:

- 1) a private, nonprofit organization that is operated on a local or statewide level, that accepts and expends donations for rewards to persons who report to the organization information about criminal activity and that forwards the information to the appropriate law enforcement agency; or
- 2) a public organization that is operated on a local or statewide level, that pays rewards to persons who report to the organization information about criminal activity, and that forwards the information to the appropriate law enforcement agency.

Requirements:

- 1) Crime Stoppers programs must focus on reducing crime through the operation of a hotline that receives information about criminal activities and fugitives from members of the public, guarantees anonymity, forwards the information to the appropriate law enforcement agency, and pays rewards.

2) In order for an applicant to be eligible, the county (or counties) in which the applicant is located must have a 90% average on both adult and juvenile criminal history dispositions to the Texas Department of Public Safety for calendar years 2007 through 2011. This requirement must be met by August 1, 2013

Project Period: Grant-funded projects must begin on or after September 1, 2013, and expire on or before August 31, 2014.

Application Process: Applicants must access CJD's eGrants website at <https://eGrants.governor.state.tx.us> to register and apply for funding.

Preferences: Preference will be given to projects that support information systems such as 24-hour tip hotlines, technology upgrades, and participation in the annual campus conference.

Closing Date for Receipt of Applications: All applications must be certified via CJD's eGrants website on or before Friday, May 24, 2013.

Selection Process: Applications will be reviewed by CJD staff members or a group selected by the executive director of CJD. CJD will make all final funding decisions based on eligibility, reasonableness of the project, availability of funding, and cost-effectiveness.

Contact Information: If additional information is needed, contact Elaine Williams at EWilliams@gov.texas.gov or (512) 463-1914.

TRD-201300889

David Zimmerman
Assistant General Counsel
Office of the Governor
Filed: February 26, 2013



Department of State Health Services

Licensing Actions for Radioactive Materials

The Department of State Health Services has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables. The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amend- ment #	Date of Action
Frisco	Forest Park Medical Center at Frisco, L.L.C. dba Forest Park Medical Center Frisco	L06534	Frisco	00	02/01/13
Sugar Land	St. Luke's Community Development Corporation - Sugar Land dba St. Luke's Sugar Land Hospital	L06532	Sugar Land	00	01/29/13
Throughout TX	CAN USA, Inc.	L06533	La Porte	00	02/05/13

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend- ment #	Date of Action
Albany	Anderson Perforating, Ltd. dba API Perforating	L06392	Albany	01	01/31/13
Arlington	USMD Hospital at Arlington	L05727	Arlington	13	02/04/13
Austin	Seton Family of Hospitals dba University Medical Center at Brackenridge	L00268	Austin	123	02/06/13
Austin	Texas Oncology	L06206	Austin	08	02/04/13
Beaumont	The Goodyear Tire & Rubber Company	L06063	Beaumont	03	02/12/13
Brenham	Scott and White Hospital Brenham	L03419	Brenham	29	02/18/13
Corpus Christi	Christus Health System dba Christus Spohn Hospital Corpus Christi Memorial	L00265	Corpus Christi	95	02/13/13
Corpus Christi	Spohn Hospital	L02495	Corpus Christi	118	01/30/13
Corpus Christi	Triad Isotopes, Inc. dba Triad Isotopes-Corpus Christi	L05368	Corpus Christi	17	02/08/13
Cypress	Cypress Cardiology, P.A.	L04353	Cypress	25	02/04/13
Dallas	Medical City Dallas Hospital dba Medical City	L01976	Dallas	193	02/07/13
Dallas	Cardinal Health	L02048	Dallas	143	02/08/13
Dallas	Medi Physics, Inc. dba GE Healthcare	L05529	Dallas	33	02/13/13
El Paso	El Paso Healthcare System, L.P. dba Del Sol Diagnostic Center	L03395	El Paso	48	02/05/13
El Paso	Tenet Hospitals Limited dba Sierra Medical Center	L04758	El Paso	31	02/05/13
Harlingen	VHS Harlingen Hospital Company, L.L.C. dba Valley Baptist Medical Center Harlingen	L06499	Harlingen	03	02/11/13
Helotes	Medicine and Radiation Oncology, P.A.	L06503	Helotes	01	02/14/13
Houston	Memorial Hermann Hospital System dba Memorial Hospital Southwest	L00439	Houston	179	02/08/13
Houston	SJ Medical Center, L.L.C. dba St. Joseph's Medical Center	L02279	Houston	77	02/13/13
Houston	D-Arrow Inspection, Inc.	L03816	Houston	85	02/04/13
Houston	DAE & Associates, Ltd. dba Geotech Engineering and Testing	L03923	Houston	23	02/01/13
Houston	Memorial Hermann Healthcare System dba Hermann Hospital	L04655	Houston	45	02/04/13
Houston	Gulf Coast MRI & Diagnostic	L05333	Houston	18	02/08/13
Houston	American Diagnostic Tech, L.L.C.	L05514	Houston	85	01/28/13

AMENDMENTS TO EXISTING LICENSES ISSUED (CONTINUED):

Location	Name	License #	City	Amend- ment #	Date of Action
Houston	American Diagnostic Tech, L.L.C.	L05514	Houston	86	02/08/13
Houston	PETNET Houston, L.L.C.	L05542	Houston	29	02/13/13
Houston	NIS Holdings, Inc. dba Nuclear Imaging Services	L05775	Houston	85	02/05/13
Houston	Nisotopes, L.L.C.	L06535	Houston	01	02/08/13
Katy	Cardiology Center of Houston, P.A.	L05400	Katy	10	02/06/13
La Grange	St. Mark's Medical Center	L03572	La Grange	27	02/07/13
Livingston	Memorial Hospital of Polk County dba Memorial Medical Center Livingston	L05552	Livingston	12	02/11/13
Lubbock	Lubbock Heart Hospital, L.L.C.	L05742	Lubbock	10	02/08/13
McKinney	Columbia Medical Center of McKinney Subsidiary, L.P. dba Medical Center of McKinney	L02415	McKinney	44	02/04/13
McKinney	Taysir F. Jarrah, M.D., P.A. Cardiology	L05464	McKinney	09	02/11/13
Pampa	Hunting Titan, Ltd.	L04920	Pampa	23	02/13/13
San Antonio	Methodist Healthcare System of San Antonio Ltd., L.L.P.	L00594	San Antonio	313	02/11/13
San Antonio	VHS San Antonio Imaging Partners, L.P. dba Baptist M&S Imaging Centers	L04506	San Antonio	85	02/12/13
San Antonio	BHS Specialty Network, Inc. dba Heart and Vascular Institute of Texas	L06482	San Antonio	02	01/24/13
San Marcos	Central Texas Center for Cancer Care	L05189	San Marcos	05	02/13/13
Sherman	Texas Oncology, P.A. dba Texas Cancer Center Sherman	L05019	Sherman	26	02/12/13
Spring	Supply Chain Solutions, Ltd. dba Antares USA, Ltd.	L06253	Spring	03	02/08/13
Sunray	Diamond Shamrock Refining Company, L.P.	L04398	Sunray	21	02/13/13
Sweeny	Phillips 66 Company	L06524	Sweeny	01	02/14/13
The Woodlands	St. Luke's The Woodlands Hospital	L05763	The Woodlands	25	02/06/13
Throughout TX	Desert NDT, L.L.C. dba Midwest Inspection Services	L06462	Abilene	08	02/01/13
Throughout TX	Recon Petrotechnologies, Inc.	L06026	Alvarado	15	02/01/13
Throughout TX	Bryant Consultants, Inc.	L05096	Carrollton	10	02/05/13
Throughout TX	United States Environmental Services, L.L.C.	L05801	Deer Park	07	02/07/13
Throughout TX	Mistras Group, Inc.	L06369	Deer Park	10	02/11/13
Throughout TX	Lockheed Martin Corporation dba Lockheed Martin Aeronautics Company	L05633	Fort Worth	13	02/14/13
Throughout TX	Halliburton Energy Services, Inc.	L00442	Houston	129	02/06/13
Throughout TX	Ulrich Engineers, Inc.	L03950	Houston	11	02/12/13
Throughout TX	Material Inspection Technology, Inc.	L05672	Houston	38	02/14/13
Throughout TX	Baker Hughes Oilfield Operations, Inc.	L06453	Houston	04	02/06/13
Throughout TX	Marco Inspection Services, L.L.C.	L06072	Kilgore	44	01/31/13
Throughout TX	Turner Industries Group, L.L.C.	L06235	Pasadena	08	02/05/13
Throughout TX	Schlumberger Technology Corporation	L00109	Sugar Land	63	02/01/13
Throughout TX	Schlumberger Technology Corporation	L00764	Sugar Land	134	02/08/13
Throughout TX	Apex Geoscience, Inc.	L04929	Tyler	42	02/06/13
Throughout TX	Trans-Environmental Services, L.L.C.	L06495	Valley View	01	02/05/13

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amend- ment #	Date of Action
Burleson	Rajanarender R. Cholleti, M.D., P.A.	L06175	Burleson	03	02/05/13
Dallas	Cooper Medical Imaging, L.L.P.	L05138	Dallas	13	02/05/13

TERMINATIONS OF LICENSES ISSUED (CONTINUED):

Location	Name	License #	City	Amendment #	Date of Action
Houston	Diagnostic Clinic of Houston Nuclear Medicine	L03452	Houston	35	02/04/13
Houston	Imaging Institute of Texas	L04893	Houston	10	01/30/13
Houston	Domingo G. Gonzalez, Jr., M.D., P.A. dba Houston Metropolitan Cardiology Assoc.	L05283	Houston	11	02/05/13
Mansfield	Cardiology Partners, L.L.P.	L05999	Mansfield	05	02/05/13
Midland	Murphrees Tool Company	L04195	Midland	07	02/05/13
Sherman	David F. Davis, M.D., F.A.C.C., P.A.	L05477	Sherman	06	02/05/13
Sherman	Sherman Heart Group, L.L.P.	L05498	Sherman	12	02/05/13
Sugar Land	St. Luke's Sugar Land Partnership, L.L.P. dba St. Luke's Sugar Land Hospital	L06180	Sugar Land	10	01/29/13
Texas City	BP Products North America, Inc.	L00254	Texas City	75	02/13/13
Throughout TX	AECOM Technical Services, Inc.	L05449	San Antonio	11	02/12/13

In issuing new licenses, amending and renewing existing licenses, or approving license exemptions, the Department of State Health Services (department), Radiation Safety Licensing Branch, has determined that the applicant has complied with the applicable provisions of 25 Texas Administrative Code (TAC) Chapter 289 regarding radiation control. In granting termination of licenses, the department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC Chapter 289. In denying the application for a license, license renewal or license amendment, the department has determined that the applicant has not met the applicable requirements of 25 TAC Chapter 289.

This notice affords the opportunity for a hearing on written request of a person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. A person affected may request a hearing by writing Richard A. Ratliff, Radiation Program Officer, Department of State Health Services, Radiation Material Licensing - Mail Code 2835, P.O. Box 149347, Austin, Texas 78714-9347. For information call (512) 834-6688.

TRD-201300898
Lisa Hernandez
General Counsel
Department of State Health Services
Filed: February 27, 2013

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Texas Department of Housing and Community Affairs

HOME Investment Partnerships Program 2012 HOME Single Family Programs Reservation System Notice of Funding Availability (NOFA)

(1) Summary. The Texas Department of Housing and Community Affairs (the "Department") announces the availability of approximately \$22,768,903 in funding from the HOME Investment Partnerships Program (HOME) for single family housing programs under a Reservation System. The availability and use of these funds is subject to the state Single Family Programs Umbrella Rule at 10 TAC Chapter 20, §§20.1 - 20.15, and the state HOME Rules at 10 TAC Chapter 23, concerning Single Family HOME Program ("HOME Rules") in effect at the time the Reservation System Participation (RSP) application is submitted, the federal HOME regulations governing the HOME program (24 CFR Part 92.), and Texas Government Code, Chapter 2306. Other federal regulations apply, including but not limited to, 24 CFR Parts 50 and 58

for environmental requirements, 24 CFR §84.42 and §85.36 for conflict of interest, 24 CFR §135.38 for §3 requirements and 24 CFR Part 5, Subpart A for fair housing. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the program.

(2) Allocation of HOME Funds.

(a) The funds are made available through the Department's 2012 allocation of HOME funds from the U.S. Department of Housing and Urban Development (HUD), deobligated HOME funds, uncommitted funds, and HOME Program Income funds. These funds are not subject to the Regional Allocation Formula (RAF), because funds were regionally allocated during the release of previous HOME Program NOFAs. Applications submitted prior to 5:00 p.m. December 4, 2012, were subject to the Regional Allocation Formula.

(b) Approximately \$16,346,102 in funds is available under this NOFA, of which \$5,346,102 was subject to the RAF, \$5,000,000 was not subject to the RAF, and the remaining \$6,000,000 is being reprogrammed to this NOFA in accordance with the Department's Deobligation Policy. These funds may be reserved for individual households for the following Program Activities:

(i) Homeowner Rehabilitation Assistance (HRA). HRA provides funds for the rehabilitation, or demolition and reconstruction of single family residences owned and occupied by low-income eligible households. Specific program guidelines can be found at 10 TAC Chapter 23, Sin-

gle Family HOME Program, Subchapter C, Homeowner Rehabilitation Assistance Program, §§23.30 - 23.32.

(ii) Homebuyer Assistance (HBA). HBA provides down payment and closing cost assistance to eligible low-income homebuyers. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter D, Homebuyer Assistance Program, §§23.40 - 23.42.

(iii) Tenant-Based Rental Assistance (TBRA). TBRA provides rental subsidies to eligible low-income households. Assistance may include rental deposit and utility deposits. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter F, Tenant-Based Rental Assistance Program, §§23.60 - 23.62.

(c) Approximately \$6,422,801 in funds available under this NOFA, and not subject to the RAF, may be reserved for individual households for the following set-aside Program Activities:

(i) Persons with Disabilities (PWD) Set-Aside. Approximately \$3,208,569 in funding is set-aside to assist Persons with Disabilities with TBRA, HRA, or HBA.

(ii) Contract for Deed Conversion (CFDC) Set-Aside. Approximately \$2,000,000 in funding is set-aside to assist eligible households until March 29, 2013, at which time Staff may re-direct (reprogram) \$1,000,000 if insufficient demand exists in this set-aside and these funds are needed in order to satisfy excess (higher) demand of other Single Family HOME Program Activities. An additional \$250,000 will be re-directed on July 1, 2013, if insufficient demand still exists and there is a need to satisfy excess demands of other Single Family HOME Program Activities. CFDC provides funds for the conversion of a contract for deed to a traditional mortgage. Additional funds for rehabilitation or reconstruction are also available. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter E, Contract for Deed Conversion Program, §§23.50 - 23.52.

(iii) Disaster Relief Set-Aside. In accordance with 10 TAC Chapter 1, §1.19, relating to Deobligated Funds, approximately \$1,214,232 in funding is set-aside to assist eligible households. Disaster Relief assistance may provide Homeowner Rehabilitation Assistance, Homebuyer Assistance, or Tenant-Based Rental Assistance to eligible households directly affect by a natural disaster.

(d) Staff may reprogram additional HOME funds, except for funds set-aside for PWD, at anytime to the Reservation System for any HOME Activity specified in this NOFA in order to satisfy excess (higher) demand of other Single Family HOME Program Activities, in accordance to the Department's deobligation policy at 10 TAC Chapter 1 §1.19.

(e) After Tuesday, December 4, 2012, any funds which were not requested under (2)(a) of this NOFA collapsed and were made available statewide for any activity under this NOFA.

(f) Applications to participate in the Reservation System will be accepted by the Department on an ongoing basis until 5:00 p.m. Friday, March 29, 2013, except for applications submitted under the Disaster Relief set-aside and PWD set-aside which may be submitted at any time the Department is accepting applications.

(g) Updated balances for the reservation system may be accessed online at www.tdhca.state.tx.us/home-division/home-reservation-summary.htm. Reservations of funds may be submitted at any time during the term of a Reservation System Participation Agreement, or until such time as RSP funds are exhausted, whichever comes first.

(3) Eligible and Prohibited Activities.

(a) Prohibited activities include those at 24 CFR §92.214 and 10 TAC Chapter 23 concerning Single Family HOME Program.

(b) Funds will not be eligible for use in a Participating Jurisdiction (PJ) except for Applications receiving funds under the Persons with Disabilities Set-Aside.

(c) Eligible Applicants are Units of General Local Government, Non-profit Organizations, and Public Housing Authorities.

(4) Application Threshold Requirements.

(a) Threshold Criteria. Threshold criteria in 10 TAC Chapter 23, concerning Single Family HOME Program are mandatory requirements at the time of application submission, unless specifically indicated otherwise, and will be included in the written agreement.

(5) Application Submission.

(a) All applications for a Reservation System Participation Agreement submitted under this NOFA must be received on or before 5:00 p.m. Friday, March 29, 2013, regardless of method of delivery, except for applications submitted under the Disaster Relief set-aside and the PWD set-aside, which may be submitted at any time the Department is accepting applications. The Department will accept applications from 8:00 a.m. to 5:00 p.m. each business day, excluding federal and state holidays, from the date this NOFA is published in the *Texas Register* until the deadline date. For questions regarding this NOFA, please contact the HOME Division at (512) 463-8921 or via email at HOME@tdhca.state.tx.us.

(b) All applications must be submitted and documentation provided as described in 10 TAC §23 and the Application Submission Procedures Manual (ASPM).

(c) All Application materials including manuals, NOFA, program guidelines, and all applicable HOME rules, will be available on the Department's website at www.tdhca.state.tx.us. Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of Application submission. Applications must be on forms provided by the Department, cannot be altered or modified, and must be in final form before submitting them to the Department.

(d) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$30 per Application. Payment must be in the form of a check, cashier's check, or money order. Do not send cash. The Application fee is not an allowable or reimbursable cost under the HOME Program. An Applicant that is a Nonprofit Organization may request a fee waiver in accordance with Texas Government Code, §2306.147(b).

(e) This NOFA does not include text of the various applicable regulatory provisions pertinent to the HOME Program. For proper completion of the application, the Department strongly encourages potential applicants to review the State and Federal regulations, and contact the HOME Division for guidance and assistance.

(f) Applications must be sent via overnight delivery to:

Texas Department of Housing and Community Affairs
HOME Single Family Division

221 East 11th Street

Austin, Texas 78701-2410

Or via the U.S. Postal Service to:

Texas Department of Housing and Community Affairs
HOME Single Family Division

P.O. Box 13941

Austin, Texas 78711-3941

TRD-201300879

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Filed: February 26, 2013

Texas Department of Insurance

Company Licensing

Application to change the name of CHARTIS SEGUROS MEXICO, S.A. DE C.V. to AIG SEGUROS MEXICO, S.A. DE C.V., an Alien Mexican Casualty company. The home office is in Benito Juarez, Mexico, D.F.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Godwin Ohaechesi, 333 Guadalupe Street, MC 305-2C, Austin, Texas 78701.

TRD-201300892

Sara Waitt

General Counsel

Texas Department of Insurance

Filed: February 27, 2013

Texas State Library and Archives Commission

Notice of Availability of Request for Qualifications for Internal Auditing Services

The Texas State Library and Archives Commission (TSLAC) is seeking proposals from qualified entities to provide internal auditing services to TSLAC under authority of the Government Code, Chapter 441. These services are required to comply with the Texas Internal Auditing Act, Chapter 2102, Texas Government Code, which also details internal auditing responsibilities. TSLAC requires services that represent the best combination of price and quality.

Services will include working with TSLAC audit committee to develop a proposed internal audit work schedule based on a written risk assessment of all major systems and controls of the TSLAC for FY 2014-FY 2015; a proposed internal audit plan for FY 2014-FY 2015; follow up reviews and reports on the status of implementation of all outstanding previous internal audit recommendations; preparing the Annual Internal Audit Reports for FY 2014-2015; and auditing services for selected key agency program components and grant recipients based on the assessments. In addition to written reports, periodic oral reports to the TSLAC Audit Committee and/or full Commission will be required. The quantity of work is estimated to be between 500-600 hours per year. It is anticipated that most of the required audit work can be accomplished at the Lorenzo de Zavala State Archives and Library Building, 1201 Brazos Street, Austin, Texas 78701.

The request for qualifications will be available on the Electronic State Business Daily (ESBD) on or about March 15, 2013 under Agency Requisition Number 306-14-8001. Copies will also be available by contacting Jill Sutherland at (512) 936-2774. Periodic updates, addenda, and clarifications may be posted on the ESBD, and interested parties are responsible for monitoring the website accordingly. Final proposals must be received by the Texas State Library and Archives Commission, 1201 Brazos Street, Room 309, Austin, Texas 78701, Attention: Jill Sutherland, by 10:00 a.m., Central Time, April 15, 2013, to be eligible for consideration.

Each Respondent will be evaluated based on the criteria and process set forth in the RFQ. The final selection of the internal auditing services, if any, will be made by the TSLAC Commission.

TRD-201300736

Edward Seidenberg

Interim Director and Librarian

Texas State Library and Archives Commission

Filed: February 20, 2013

Texas Department of Licensing and Regulation

Vacancies on Air Conditioning and Refrigeration Contractors Advisory Board

The Texas Department of Licensing and Regulation (Department) announces two vacancies on the Air Conditioning and Refrigeration Contractors Advisory Board (Board) established by Texas Occupations Code, Chapter 1302. The pertinent rules may be found in 16 TAC §75.65. The purpose of the Air Conditioning and Refrigeration Contractors Advisory Board is to advise the Texas Commission of Licensing and Regulation (Commission) in adopting rules, administering and enforcing this chapter, and setting fees.

The Board is composed of seven members appointed by the presiding officer of the Commission, with the Commission's approval. The board consists of one official of a municipality with a population of more than 250,000; one official of a municipality with a population of not more than 250,000; and four full-time licensed air-conditioning and refrigeration contractors, as follows: one member who holds a Class A license and practices in a municipality with a population of more than 250,000; one member who holds a Class B license and practices in a municipality with a population of more than 250,000; one member who holds a Class A license and practices in a municipality with a population of more than 25,000 but not more than 250,000; one member who holds a Class B license and practices in a municipality with a population of not more than 25,000; and one member of the advisory board must be a public member. At least one appointed board member must be an air conditioning and refrigeration contractor who employs organized labor and at least two appointed members must be air conditioning and refrigeration contractors who are licensed engineers. The executive director and the chief administrator of this chapter serve as ex officio, nonvoting members of the board. Members serve staggered six-year terms. The terms of two appointed members expire on February 1 of each odd-numbered year. This announcement is for Class A license and practices in a municipality with a population of more than 25,000 but not more than 250,000; and a Class B license and practices in a municipality with a population of not more than 25,000. Additionally applicants should be licensed engineers and/or a contractor who hires organized labor.

Interested persons should submit an application on the Department website at: <https://www.license.state.tx.us/AdvisoryBoard/login.aspx>. Applicants can also request an application from the Department by telephone at (800) 803-9202, fax (512) 475-2874, or email advisory.boards@tdlr.texas.gov.

Applicants may be asked to appear for an interview; however, any required travel for an interview would be at the applicant's expense.

TRD-201300904

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Filed: February 27, 2013

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Vacancies on Board of Boiler Rules

The Texas Department of Licensing and Regulation (Department) announces two vacancies on the Board of Boiler Rules (Board) established by Texas Health and Safety Code, Chapter 755. The pertinent rules may be found in 16 TAC §65.65. The purpose of the Board of Boiler Rules is to advise the Texas Commission of Licensing and Regulation (Commission) in the adoption of definitions and rules relating to the safe construction, installation, inspection, operating limits, alteration, and repair of boilers and their appurtenances.

The Board is composed of eleven members appointed by the presiding officer of the Commission, with the Commission's approval. The Board consists of three members representing persons who own or use boilers in this state; three members representing companies that insure boilers in this state; one member representing boiler manufacturers or installers; one member representing organizations that repair or alter boilers in this state; one member representing a labor union; and two public members. Members serve staggered six-year terms, with the terms of three members expiring January 31 of each odd-numbered year. This announcement is for one owner or user of boilers and for one public member position.

Interested persons should submit an application on the Department website at: <https://www.license.state.tx.us/AdvisoryBoard/login.aspx>. Applicants can also request an application from the Department by telephone at (800) 803-9202, fax (512) 475-2874 or email advisory.boards@tdlr.texas.gov.

Applicants may be asked to appear for an interview; however, any required travel for an interview would be at the applicant's expense.

TRD-201300806
William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation
Filed: February 22, 2013

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Vacancies on Electrical Safety and Licensing Advisory Board

The Texas Department of Licensing and Regulation (Department) announces four vacancies on the Electrical Safety and Licensing Advisory Board (Board) established by Texas Occupations Code, Chapter 1305. The pertinent rules may be found in 16 TAC §73.65. The purpose of the Electrical Safety and Licensing Advisory Board is to provide advice and recommendations to the Texas Commission of Licensing and Regulation (Commission) on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, electrical code requirements, and continuing education requirements.

The Board is composed of nine members appointed by the presiding officer of the Commission, with the Commission's approval. The Board consists of three master electrician members, three journeyman electrician members, and three public members. Members serve staggered six-year terms. This announcement is for the positions of a master electrician, two journeyman electricians, and a public member.

Interested persons should submit an application on the Department website at: <https://www.license.state.tx.us/AdvisoryBoard/login.aspx>. Applicants can also request an application from the Department by telephone at (800) 803-9202, fax (512) 475-2874 or email advisory.boards@tdlr.texas.gov.

Applicants may be asked to appear for an interview; however, any required travel for an interview would be at the applicant's expense.

TRD-201300807
William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation
Filed: February 22, 2013

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Vacancies on Medical Advisory Committee

The Texas Department of Licensing and Regulation (Department) announces four vacancies on the Medical Advisory Committee (Committee) established by Texas Occupations Code, Chapter 2052. The pertinent rules may be found in 16 TAC §61.120. The purpose of the Medical Advisory Committee is to advise the Texas Commission of Licensing and Regulation (Commission) on health issues for combative sports event contestants including physical tests for contestants and registration requirements for ringside physicians.

The Committee is composed of seven members appointed by the presiding officer of the Commission, with the Commission's approval. The Committee consists of four members who shall be medical doctors licensed by the State of Texas; one emergency medical technician; and two public members. Members serve at the will of the Commission. This announcement is for two medical doctors licensed by the State of Texas, an emergency medical technician and a public member.

Interested persons should submit an application on the Department website at: <https://www.license.state.tx.us/AdvisoryBoard/login.aspx>. Applicants can also request an application from the Department by telephone at (800) 803-9202, fax (512) 475-2874 or email advisory.boards@tdlr.texas.gov.

Applicants may be asked to appear for an interview; however, any required travel for an interview would be at the applicant's expense.

TRD-201300808
William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation
Filed: February 22, 2013

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Vacancies on Property Tax Consultants Advisory Council

The Texas Department of Licensing and Regulation (Department) announces two vacancies on the Property Tax Consultants Advisory Council (Council) established by Texas Occupations Code, Chapter 1152. The pertinent rules may be found in 16 TAC §66.65. The purpose of the Property Tax Consultants Advisory Council is to advise the Texas Commission of Licensing and Regulation (Commission) on standards of practice, conduct, and ethics for registrants; setting fees; examination contents and standards of performance for senior property tax consultants; recognition of continuing education programs and courses for registrants; and establishing educational requirements for initial applicants.

The Council is composed of seven members appointed by the presiding officer of the Commission, with the Commission's approval. The Council consists of six registered property tax consultants and one public member. Each person appointed for membership on the council must: be a registered senior property tax consultant; be a member of a nonprofit, voluntary trade association that has a membership primarily composed of individuals who perform property tax consulting services in this state or who engage in property tax management in this state for other persons; have written experience and examination requirements for membership; subscribe to a code of professional conduct or ethics; be a resident of this state for the five years preceding the date of

the appointment; and have performed or supervised the performance of property tax consulting services as the individual's primary occupation continuously for the five years preceding the date of the appointment. Members serve staggered three-year terms. This announcement is for two registered property tax consultants.

Interested persons should submit an application on the Department website at: <https://www.license.state.tx.us/AdvisoryBoard/login.aspx>. Applications may also be requested by telephone at (800) 803-9202, fax (512) 475-2874, or email advisory.boards@tdlr.texas.gov.

Applicants may be asked to appear for an interview; however, any required travel for an interview would be at the applicant's expense.

TRD-201300809

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Filed: February 22, 2013

Texas Lottery Commission

Instant Game Number 1504 "Just Match"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1504 is "JUST MATCH". The play style is "match 3 of X".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1504 shall be \$2.00 per Ticket.

1.2 Definitions in Instant Game No. 1504.

A. Display Printing - That area of the instant game Ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Ticket.

C. Play Symbol - The printed data under the latex on the front of the Instant Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$250, \$1,000 and \$20,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1504 - 1.2D

PLAY SYMBOL	CAPTION
\$2.00	TWO\$
\$4.00	FOUR\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONE HUND
\$250	TWO HUND50
\$1,000	ONE THOU
\$20,000	20 THOU

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the Ticket. There will be a four (4)-digit "security number" which will be individually boxed and randomly placed within the number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$2.00, \$4.00, \$5.00, \$10.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00, \$100 or \$250.

H. High-Tier Prize - A prize of \$1,000 or \$20,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1504), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 1504-0000001-001.

K. Pack - A pack of "JUST MATCH" Instant Game Tickets contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One Ticket will be folded over to expose a front and back of one Ticket on each pack. Please note the books will be in an A, B, C and D configuration.

L. Non-Winning Ticket - A Ticket which is not programmed to be a winning Ticket or a Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "JUST MATCH" Instant Game No. 1504 Ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Ticket validation requirements set forth in Texas Lottery Rule, 16 TAC §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Instant Ticket. A prize winner in the "JUST MATCH" Instant Game is determined once the latex on the Ticket is scratched off to expose 20 (twenty) Play Symbols. If a player matches 3 amounts in the same GAME, the player wins that amount. Each GAME plays separately. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game Ticket, all of the following requirements must be met:

1. Exactly 20 (twenty) Play Symbols must appear under the Latex Overprint on the front portion of the Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Ticket;
8. The Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Ticket must not be counterfeit in whole or in part;
10. The Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Ticket must not have been stolen, nor appear on any list of omitted Tickets or non-activated Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Ticket must be complete and not miscut, and have exactly 20 (twenty) Play Symbols under the Latex Overprint on the front portion of the Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the Ticket;
14. The Serial Number of an apparent winning Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Tickets, and a Ticket with that Serial Number shall not have been paid previously;
15. The Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the 20 (twenty) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 20 (twenty) Play Symbols on the Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Ticket. In the event a defective Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Ticket with another unplayed Ticket in that Instant Game (or a Ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Players can win up to four (4) times on a Ticket in accordance with the approved prize structure.

B. Adjacent Non-Winning Tickets within a Pack will not have identical Prize Symbol patterns. Two (2) Tickets have identical Prize Symbol patterns if they have the same Prize Symbols in the same positions.

C. The top Prize Symbol will appear on every Ticket unless otherwise restricted.

D. Games will never contain more than three (3) identical Prize Symbols.

E. Non-winning GAMES will never contain identical sets of Prize Symbols regardless of order.

F. Non-winning Prize Symbols will never appear more than four (4) times on a Ticket.

G. Winning Prize Symbols will not match non-winning Prize Symbols.

H. There will be no occurrence of three (3) identical Prize Symbols vertically or diagonally except when there are three (3) consecutive winning GAMES.

2.3 Procedure for Claiming Prizes.

A. To claim a "JUST MATCH" Instant Game prize of \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100 or \$250, a claimant shall sign the back of the Ticket in the space designated on the Ticket and present the winning Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$250 Ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "JUST MATCH" Instant Game prize of \$1,000 or \$20,000, the claimant must sign the winning Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated

winning Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "JUST MATCH" Instant Game prize, the claimant must sign the winning Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "JUST MATCH" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "JUST MATCH" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Tickets ordered. The number of actual prizes available in a game may vary based on number of Tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game Ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game Ticket in the space designated, a Ticket shall be owned by the physical possessor of said Ticket. When a signature is placed on the back of the Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Ticket in the space designated. If more than one name appears on the back of the Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game Tickets and shall not be required to pay on a lost or stolen Instant Game Ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 6,000,000 Tickets in the Instant Game No. 1504. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1504 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$2	576,000	10.42
\$4	576,000	10.42
\$5	144,000	41.67
\$10	72,000	83.33
\$20	48,000	125.00
\$50	24,000	250.00
\$100	3,925	1,528.66
\$250	625	9,600.00
\$1,000	75	80,000.00
\$20,000	6	1,000,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.15. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1504 without advance notice, at which point no further Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Instant Game closing procedures and the Instant Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game Ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1504, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-201300745
Bob Biard
General Counsel
Texas Lottery Commission
Filed: February 21, 2013



Notice of Public Comment Hearing

A public hearing to receive public comments regarding proposed amendments to 16 TAC §401.307 "Pick 3" On-Line Game Rule and 16 TAC §401.316 "Daily 4" On-Line Game Rule will be held on Wednesday, March 20, 2013, at 10:00 a.m. at 611 E. 6th Street, Austin, Texas 78701.

Persons requiring any accommodation for a disability should notify Michelle Guerrero, Executive Assistant to the General Counsel, Texas Lottery Commission, at (512) 344-5113 at least 72 hours prior to the public hearing.

TRD-201300744
Bob Biard
General Counsel
Texas Lottery Commission
Filed: February 20, 2013



Office of the Controller, Winner Payment Processing and Review, Procedure OC-WP-001

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in this document is not included in the print version of the Texas Register. The figure is available in the on-line version of the March 8, 2013, issue of the Texas Register.)

The Texas Lottery Commission published proposed amendments to the attached procedure (Winner Payment Processing and Review, OC-WP-001), a procedure that affects Lotto Texas® players, with a Notice of Public Comment Hearing in the November 30, 2012, issue of the *Texas Register* (37 TexReg 9550). A Public Comment Hearing was held on Monday, January 7, 2013 at 11:00 a.m. at the Texas Lottery Commission, Commission Auditorium, First Floor, 611 E. Sixth Street, Austin, Texas 78701. No members of the public were present at the hearing. The Commission received no written comments from individuals, groups, or associations during the public comment period. The Texas Lottery Commission adopted the amended procedure at the February 20, 2013, Commission Meeting.

The procedure incorporates processing revisions for the Texas Lottery Commission's new gaming system. The Texas Lottery Commission has determined that information that is confidential by law, because it goes to the security of the operation of the lottery, is contained within

this procedure. The confidential information has been redacted within this procedure included in this notice.

TRD-201300773

Bob Biard

General Counsel

Texas Lottery Commission

Filed: February 21, 2013

Public Utility Commission of Texas

Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on February 19, 2013, to amend a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of RB3, LLC d/b/a Reach Broadband to Amend Its State-Issued Certificate of Franchise Authority; to add Cities of Iraan and Van Horn, Texas, Project Number 41230.

The requested amendment is to expand the service area footprint to include the municipalities of Iraan and Van Horn, Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) (800) 735-2989. All inquiries should reference Project Number 41230.

TRD-201300788

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: February 22, 2013

Notice of Application for a Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on February 20, 2013, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of U-PHONE, LLC for a Service Provider Certificate of Operating Authority, Docket Number 41236.

Applicant intends to provide resale-only telecommunications services.

Applicant did not provide a geographic area for which the certificate is requested within the State of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477 no later than March 15, 2013. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll-free at (800) 735-2989. All comments should reference Docket Number 41236.

TRD-201300790

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: February 22, 2013

Notice of Application for Sale, Transfer, or Merger

Notice is given to the public of an application by Entergy Texas, Inc. (ETI or company), ITC Holdings Corp. (ITC), Mid South Transco LLC, Transmission Company Texas, LLC, and ITC Midsouth, LLC for approval of proposed transactions to transfer ownership and control of ETI's transmission assets to a subsidiary of ITC (application), filed with the Public Utility Commission of Texas (commission) on February 19, 2013, pursuant to the Public Utility Regulatory Act, Texas Utility Code Annotated, §39.262 and §39.915 (Vernon 2007 & Supplement 2012) (PURA).

Docket Style and Number: Application of Entergy Texas, Inc., ITC Holdings Corp., Mid South Transco LLC, Transmission Company Texas, LLC, and ITC Midsouth LLC for Approval of Change of Ownership and Control of Transmission Business, Transfer of Certification Rights, Certain Cost Recovery Approvals and Related Relief, Docket Number 41223.

The Application: Approval of this application would result in the transfer of ETI's transmission assets and business and related CCN rights to a subsidiary of ITC as well as a corporate reorganization of ETI within the Entergy Corporation structure. The ITC subsidiary will assume ownership and operation of ETI's transmission assets that are at or above 69-kV. ETI also will change corporate form and continue to own and operate generation and distribution assets and provide retail electric service in its certificated service area. Approval of the application will affect all of ETI's customers in all areas of its service territory, but it will not have any immediate effect on ETI's retail electricity rates. ETI is not seeking modification of its rates in this application, but is proposing a mechanism be approved in principle to address rate impacts of the transaction that would be implemented in a separate proceeding.

Persons who wish to intervene in or comment upon this application should notify the Public Utility Commission of Texas. A request to intervene or for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is March 21, 2013. All correspondence should refer to Docket Number 41223.

TRD-201300787

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: February 22, 2013

Notice of Application to Amend Certificated Service Area Boundaries

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application filed on February 20, 2013, for an amendment to certificated service area boundaries within La Salle County, Texas.

Docket Style and Number: Joint Application of AEP Texas Central Company and Medina Electric Cooperative, Inc. to amend a Certificate of Convenience and Necessity for Service Area Boundaries within La Salle County. Docket Number 41237.

The Application: The Eagle Ford Crossing Development and adjacent SK Nelson Development have residential and commercial use lots that are split by the current service boundaries. The proposed boundary change will allow the developers and future tenants to coordinate with a single utility to provide service. The proposed change will take advantage of property lines and easements to identify the boundary lines. AEP Texas Central Company estimates cost of construction is \$15,205 and Medina Electric Cooperative, Inc. estimates cost of construction is \$14,200. Both applicants have facilities in the area and are capable of providing quality service.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas no later than March 15, 2013 by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) (800) 735-2989. All comments should reference Docket Number 41237.

TRD-201300789

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: February 22, 2013



Notice of Filing to Withdraw Services Pursuant to P.U.C. Substantive Rule §26.208(h)

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) to withdraw services pursuant to P.U.C. Substantive Rule §26.208(h).

Docket Title and Number: Application of Southwestern Bell Telephone Company d/b/a AT&T Texas to Withdraw the Offering of Public Announcement Distribution Services to New Customers, Docket Number 41193.

The Application: On February 6, 2013, pursuant to P.U.C. Substantive Rule §26.208(h), Southwestern Bell Telephone Company d/b/a AT&T Texas (AT&T Texas or applicant) filed an application with the commission to withdraw the offering of Public Announcement Distribution Services (PADS) to new customers. AT&T Texas explained that it is discontinuing this service due to the almost non-existent public's demand for PADS, as smart phones, computers and tablets have now become alternatives to this service. AT&T Texas explained that existing customers may continue to subscribe to PADS, but will not be permitted to make new installations, moves, or arrangements. AT&T Texas proposed an effective date of May 17, 2013. The proceedings were docketed and suspended on February 7, 2013, to allow adequate time for review and intervention.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) (800) 735-2989. All inquiries should reference Docket Number 41193.

TRD-201300797

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: February 22, 2013



Texas Department of Transportation

Aviation Division - Request for Qualifications for Professional Architectural/Engineering Services

The City of Palacios, through its agent, the Texas Department of Transportation (TxDOT), intends to engage an aviation professional engineering firm for services pursuant to Government Code, Chapter 2254, Subchapter A. TxDOT Aviation Division will solicit and receive qualifications for professional aviation engineering design services described below.

The following is a listing of proposed projects at the Palacios Municipal Airport during the course of the next five years through multiple grants.

Current Project: City of Palacios. TxDOT CSJ No. 1313PALCS.

Scope: Provide engineering/design services to:

1. Repair pavement on Runway 13-31
2. Repair faulting spalling concrete slabs on Runway 13-31
3. Renumber Runway 17/35
4. Replace Signs

The DBE/HUB goal for the current project is 3 percent. TxDOT Project Manager is Eusebio Torres, P.E.

Future scope work items for engineering/design services within the next five years may include the following:

Install apron lighting; reconstruct existing auto parking; seal PCC joints on Runway 17-35, taxiway to Runway 13-31 and taxiway to Runway 17-35; mark Runway 17-35; install MIREL Runway 17-35; install PAPI-4 Runway 17-35; install REIL Runway 17-35 and slab repair.

The City of Palacios reserves the right to determine which of the above scope of services may or may not be awarded to the successful firm and to initiate additional procurement action for any of the services above.

To assist in your qualification statement preparation the criteria, 5010 drawing, project diagram, and most recent Airport Layout Plan are available online at

www.txdot.gov/inside-txdot/division/aviation/projects

by selecting "Palacios Municipal Airport." The qualification statement should address a technical approach for the current scope only. Firms shall use page 4, Recent Airport Experience, to list relevant past projects for both current and future scope.

Interested firms shall utilize the latest version of Form AVN-550, titled "Qualifications for Aviation Architectural/Engineering Services." The form may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, 1-800-68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT web site at

www.txdot.gov/inside-txdot/division/aviation/projects.

The form may not be altered in any way. All printing must be in black on white paper, except for the optional illustration page. Firms must carefully follow the instructions provided on each page of the form. Qualifications shall not exceed the number of pages in the AVN-550

template. The AVN-550 consists of eight eight and one half by eleven inch pages of data plus one optional illustration page. The optional illustration page shall be no larger than eleven by seventeen inches and may be folded to an eight and one half by eleven inch size. A prime provider may only submit one AVN-550. If a prime provider submits more than one AVN-550, that provider will be disqualified. AVN-550s shall be stapled but not bound or folded in any other fashion. AVN-550s WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.

ATTENTION: To ensure utilization of the latest version of Form AVN-550, firms are encouraged to download Form AVN-550 from the TxDOT website as addressed above. Utilization of Form AVN-550 from a previous download may not be the exact same format. Form AVN-550 is a PDF Template.

Please note:

Five completed copies of Form AVN-550 **must be received** by TxDOT, Aviation Division at 150 East Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704 no later than **April 2, 2013, 4:00 p.m.** Electronic facsimiles or forms sent by email will not be accepted. Please mark the envelope of the forms to the attention of Sheri Quinlan.

The consultant selection committee will be composed of Aviation Division staff members and one local government member. The final selection by the committee will generally be made following the completion of review of AVN-550s. The committee will review all AVN-550s and rate and rank each. The Evaluation Criteria for Engineering Qualifications can be found at

www.txdot.gov/inside-txdot/division/aviation/projects

under the Notice to Consultants link. All firms will be notified and the top rated firm will be contacted to begin fee negotiations. The selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

Please contact TxDOT Aviation for any technical or procedural questions at 1-800-68-PILOT (74568). For procedural questions, please contact Sheri Quinlan, Grant Manager. For technical questions, please contact Eusebio Torres, P.E., Project Manager.

TRD-201300896

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: February 27, 2013



Aviation Division - Request for Qualifications for Professional Architectural/Engineering Services

San Patricio County, through its agent the Texas Department of Transportation (TxDOT), intends to engage an aviation professional engineering firm for services pursuant to Government Code, Chapter 2254, Subchapter A. TxDOT Aviation Division will solicit and receive qualifications for professional aviation engineering design services described below.

The following is a listing of proposed projects at the McCampbell-Porter Airport during the course of the next five years through multiple grants.

Current Project: San Patricio County. TxDOT CSJ No.: 13HGIN-GL E.

Scope: Provide engineering/design services to:

1. Install drainage culvert for new hangar access taxiway

2. Construct new pavement at new T-hangar

3. Construct 13-Unit T-hangar

The DBE goal for the current project is 7 percent. TxDOT Project Manager is Stephanie Kleiber, P.E.

Future scope work items for engineering/design services within the next five years may include the following:

Rehabilitate and mark parallel TW, rehabilitate RW 13-31, rehabilitate all hangar access TXWYs; improve hangar area drainage; mark RW 13-31, rehabilitate north and south apron, and landside hangar drainage improvements.

San Patricio County reserves the right to determine which of the above scope of services may or may not be awarded to the successful firm and to initiate additional procurement action for any of the services above.

To assist in your qualification statement preparation the criteria, 5010 drawing, project diagram, and most recent Airport Layout Plan are available online at

www.txdot.gov/inside-txdot/division/aviation/projects

by selecting "McCampbell-Porter Airport." The qualification statement should address a technical approach for the current scope only. Firms shall use page 4, Recent Airport Experience, to list relevant past projects for both current and future scope.

Interested firms shall utilize the latest version of Form AVN-550, titled "Qualifications for Aviation Architectural/Engineering Services." The form may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, 1-800-68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT web site at

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under the Notice to Consultants link. All firms will be notified and the top rated firm will be contacted to begin fee negotiations. The selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

Please contact TxDOT Aviation for any technical or procedural questions at 1-800-68-PILOT (74568). For procedural questions, please contact Sheri Quinlan, Grant Manager. For technical questions, please contact Stephanie Kleiber, P.E., Project Manager.

TRD-201300897

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: February 27, 2013

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How to Use the Texas Register

Information Available: The 14 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules- sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Texas Department of Banking - opinions and exempt rules filed by the Texas Department of Banking.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules- notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Review of Agency Rules - notices of state agency rules review.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 36 (2011) is cited as follows: 36 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "36 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 36 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Register* is available in an .html version as well as a .pdf (portable document

format) version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The following companies also provide complete copies of the TAC: Lexis-Nexis (800-356-6548), and West Publishing Company (800-328-9352).

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*. The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*. If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION

Part 4. Office of the Secretary of State

Chapter 91. Texas Register

40 TAC §3.704.....950 (P)